

## **The complaint**

Mr M complains about HSBC UK Bank Plc. He says that HSBC didn't do enough to protect him when he became the victim of a scam and would like HSBC to refund him the money he has lost.

## **What happened**

In July 2023, Mr M fell victim to a job scam involving cryptocurrency.

He was persuaded to transfer money to the scammer, via his account with HSBC, then from his account with Revolut from which he then purchased crypto and sent this on to the scammer. Mr M sent £9,000 to the scammer in three separate payments.

Mr M says that HSBC didn't do enough to protect him from the scam, and that it should have prevented him from making the payments to his account with Revolut, and made a complaint

HSBC didn't uphold Mr M's complaint.

Mr M brought his complaint to this Service, and it was considered by our Investigator. However, our Investigator didn't think that the complaint should be upheld.

Mr M asked for an Ombudsman to make a final decision, so the complaint has been passed to me.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I've decided not to uphold this complaint for broadly the same reasons as our investigator. I know this will be disappointing for Mr M, so I'll explain why.

It isn't in dispute here that Mr M has been the victim of a scam and has lost money as a result. However, even when it is clear that a scam has taken place, and an individual has been tricked out of their money, it doesn't necessarily follow that a business will need to refund the money that has been lost.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider having been good industry practice at the time.

In broad terms, the starting position at law is that a banks, electronic money institutions (EMI's) and other payment service providers (PSP's) are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (PSRs) and the terms and conditions of the customer's account.

Mr M authorised the payments in question here – so even though he was tricked into doing so and didn't intend for his money to end up in the hands of a scammer, he is presumed liable in the first instance.

But this isn't the end of the story. As a matter of good industry practice, HSBC should also have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: banks had (and have) obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider having been good industry practice at the time, I consider HSBC should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

In this case, I need to decide whether HSBC acted fairly and reasonably in its dealings with Mr M when he authorised payments from his account or whether it could and should have done more before processing the payments.

Mr M says that HSBC should have stopped the payments he made to his account with Revolut, and that it could have prevented his loss. However, I am not persuaded that an intervention from HSBC would have prevented Mr M from making the payment.

I say this because Mr M attempted to make a payment directly from his account with HSBC to the crypto exchange prior to transferring funds to his account with Revolut and HSBC blocked this payment and spoke with him about what he was doing.

On my request, HSBC has provided a recording of the call that took place with Mr M, which I have listened to. During this call, HSBC questioned Mr M about what he was doing and why – but Mr M didn't divulge the true nature of what he was doing.

Mr M was asked if anyone else was involved in what he was doing – which Mr M denied, and to explain the nature of the 'investment' Mr M said he was making.

HSBC explained to Mr M that it saw a lot of scams involving crypto, and that there were risks involved with making this kind of payment – but Mr M still wanted to proceed with the payment despite the warning that HSBC gave to him, however the payment didn't end up going through.

Even if HSBC had then gone on to block the payments he was making to his account with Revolut (which he had done several times previously), I can't say that Mr M would have told HSBC the truth about what was going on, and would still have wanted to make the

payments. So I don't think that HSBC could have done any more than it did to prevent the loss that Mr M has suffered.

I am very sorry for the situation Mr M now finds himself in. He has been the victim of a cruel scam which has resulted in financial loss. However, the loss he has suffered is due to the scammer themselves – and not HSBC.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 April 2024.

Claire Pugh  
**Ombudsman**