

The complaint

Mr and Mrs M complain that HSBC UK Bank Plc (HSBC) won't refund them after they were the victims of an investment scam.

Mr and Mrs M are being represented by a third-party, but I'll refer largely to Mr M, for ease of reading and because the interactions with HSBC and with the scammers, involved Mr M only.

What happened

Mr M says he was looking to invest some money and saw an advert on a social media website. He carried out some research and couldn't see any negative reviews and decided to invest. He says he was in contact with an unregulated broker via a popular messaging app and was told he could expect returns of 50% on his investment.

Mr M made the following payments:

Date	Amount	Recipient
5 June 2023	£7,659.39	Own cryptocurrency account
6 June 2023	£16,106.53	Own cryptocurrency account
7 June 2023	£11,325.16	Own cryptocurrency account
15 June 2023	£20,000.00	Own cryptocurrency account
21 June 2023	£20,000.00	Own cryptocurrency account
22 June 2023	£10,000.00	Own cryptocurrency account

HSBC blocked the transactions on 6, 7 and 21 June 2023 and Mr M called HSBC on each occasion to ask for the payments to be released. On each occasion Mr M was questioned by HSBC, he was provided with fraud warnings and he said he wished to proceed.

I understand that payments were then made from Mr M's own cryptocurrency accounts and his money was transferred to scammers.

In the end, Mr M says he realised this was a scam when he was unable to invest any more money and the scammers threatened to sue him. He reported the fraud to HSBC, but it wouldn't refund Mr M's money.

While HSBC did intervene on some of the transactions, Mr M says HSBC's questioning should have been more robust. He says HSBC should have probed the research he'd carried-out as he wasn't providing detailed answers to HSBC's questions. He was elderly and vulnerable and investing a very large amount of money in cryptocurrency. He felt the calls were of a very poor standard. And he said, with the correct line of questioning, it would have been established that this was a fraud. He told us he wasn't actually provided with any warnings until the final call.

HSBC said the payments went to Mr M's own account at an investment trading platform and as such the payments are not covered by the Contingent Reimbursement Model (CRM) Code. It said that its fraud team spoke to Mr M in relation to three of the payments and he

assured the fraud team the money was being sent to his own cryptocurrency account. It asked him questions. It says it had no reason to suspect he was the victim of a scam and that it provided him with suitable risk warnings.

Our investigator said Mr M hadn't provided evidence to show these payments were ultimately sent on to scammers. Even if this was a scam, he didn't think HSBC could have reasonably prevented it. It did intervene in some of the transactions, it asked questions about the transactions and provided suitable warnings. He said Mr M hadn't been open and honest with HSBC in some of his responses to questions. He was provided with some warnings that were tailored to his situation, but Mr M wanted to proceed. Mr M had some experience of cryptocurrency investment and had withdrawn large sums from his cryptocurrency account in the past. The investigator didn't consider this was a case where there was sufficient reason for HSBC to have declined to process the transactions.

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.

I've seen little evidence, beyond Mr M's version of events, that he has been the victim of a scam or that he has suffered a loss and isn't able to access his money. I've been provided with some evidence that shows contact between Mr M and an unregulated third-party company, about which the FCA has issued a warning, but little else. I haven't seen evidence showing Mr M's money went to this company or that he can't now access it. Given that there is little evidence Mr M sent money from HSBC that went on to scammers, or that he cannot access it, I'm not persuaded it's reasonable to uphold his complaint.

In any event, even if I was persuaded a scam has taken place and Mr M has lost the amount of money he says he has and in the way he describes, having considered all the evidence, in particular the recordings of the calls between Mr M and HSBC, I don't consider HSBC is responsible for his loss.

Mr M had invested in cryptocurrency before and his bank account statements show payments to his cryptocurrency account in November 2022, for £1,000 and £8,000. So the transaction on 5 June 2023 might not have appeared unusual. The second transaction, for £16,106.53, the next day, triggered an intervention by HSBC, which blocked the transaction. Mr M called HSBC and talked to its fraud team and there was a follow-up call later that day. I've listened to these calls carefully and in my view, Mr M was asked a series of relevant questions.

It was established he was buying cryptocurrency and had previous experience of cryptocurrency investment. He was asked how he found out about this investment, whether he had been communicating with a third-party, whether he had researched it and what checks he had done to validate it. He said he had been investing for years, had made other transactions and knew it was okay. He was warned about investment scams, in particular scams where the customer doesn't have control over the account and are given read-only access to fake screens and screenshots with no ability to withdraw money. He was also asked if he'd been asked by anyone to answer HSBC's questions untruthfully.

I consider HSBC's questions were reasonable in the circumstances and the warnings it gave were suitable. Ultimately Mr M said he wanted to proceed, he said he had experience of this sort of investment, had been doing it for some time, he had full access to his account and was quite adamant that he should be able to do what he wanted with his money.

It seems Mr M now says he didn't have full control of the account and couldn't make withdrawals, he had heard of the investment through social media advertising and had been advised not to mention certain things when dealing with HSBC.

There were some slight clues that HSBC might have picked-up on. Mr M mentioned the name of the third-party company, in passing, so HSBC might have picked-up on a third-party being involved, rather than this being a direct investment. There was also a slight suggestion that the third-party might have been asking for further money to be invested. It was around this time that HSBC said it would call Mr M back because there was some difficulty in communication during the call. In the follow-up call Mr M was very insistent that he knew what he was doing, that he had been investing in the same investment for years, he had been able to withdraw money from the investment and could point to specific occasions when he'd withdrawn money from a cryptocurrency account into his HSBC account. He said again that he was investing directly. He was provided with a warning on investment scams, specifically about situations where customers had no control over their account, were given read-only access and shown screenshots, while fraudsters had full control and could withdraw the money. He said he was able to deposit and withdraw. He said he was buying bitcoin in his own cryptocurrency wallet, but it seems now that this wasn't the case.

Overall, I consider HSBC asked suitably probing questions, gave appropriate warnings and in light of Mr M's answers, it was reasonable for it to release the payment. In the context of the conversations, I don't find HSBC was at fault for not picking-up on the slight clues mentioned, particularly when Mr M reiterated that he was investing directly.

A second transaction was blocked, on 7 June 2023 and another call took place. Mr M was again asked how he had found out about this investment, he was asked if he had been communicating with a third party, whether he was making the investment himself and whether he had done any research. He said he was making the investment directly, had been investing for years and simply wanted to buy cryptocurrency using his own account. Fraud warnings were given about scams, specifically where a customer has no control over their investment and fraudsters have control of the account. Mr M said he had full control of his investment and he wanted to proceed with the transaction. There was nothing in particular in that conversation that would have caused HSBC concern, in my view.

On 21 June 2023 a £20,000 transaction was blocked and Mr M called HSBC wanting to know why. He was asked another series of questions, including: 'is the payment for an investment?' and 'has anyone contacted you and said you could make a huge profit?' Mr M said 'No'. He was asked if he had received any returns from this investment or been asked to make a payment to recover his money. He was told cryptocurrency investment was unregulated and subject to fraud and scams. HSBC asked if someone offered to open an account and trade on Mr M's behalf, had encouraged him to invest more and more to earn more. HSBC mentioned fake websites showing fake investments and asked whether he had been contacted by third-parties asking him to make payments. These are the sort of questions I would expect HSBC to ask and the kind of warnings I would expect it to give, in the circumstances. I'm not persuaded Mr M's answers ought to have prompted any concerns and the payment was released. I consider that was reasonable in the circumstances.

Overall, I consider HSBC asked suitably probing questions in all three calls, to try and determine whether these payments were being made as part of a scam to take Mr M's money. Some of Mr M's answers were inaccurate, for example he said he hadn't been contacted by third-parties. He pointed to successful previous investment in cryptocurrency and gave the impression he was investing and trading directly. He was given warnings about the type of scam he says he fell victim to, where his investment was made, ultimately, to an account he didn't have control over and from which he couldn't make withdrawals.

Mr M says he was vulnerable and had been told by the scammers not to mention certain things, but overall, I'm not persuaded Mr M engaged openly with HSBC. And I consider his answers to HSBC's questions would have given it insufficient cause to refuse to make the payments or to suspect he was at risk of financial harm. HSBC provided suitable risk warnings to Mr M and so, on balance, I don't consider HSBC could reasonably have prevented Mr and Mrs M's loss.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 28 December 2024.

Greg Barham
Ombudsman