

## **The complaint**

Mrs and Mr E complain HSBC UK Bank Plc didn't do enough to protect them when they fell victim to an investment scam.

Mrs and Mr E have been supported by a legal representative in bringing this complaint, but for ease I'll only refer to Mrs and Mr E throughout this decision.

## **What happened**

In March 2021, Mrs and Mr E lost over £50,000 to a crypto investment scam. They have explained that, having conducted some research into crypto investments, Mr E came across an investment opportunity offered by a company I'll refer to as "F", on a social media platform.

Having registered his interest, Mr E was contacted by a broker who advised him to send funds to a legitimate crypto exchange (which I'll refer to as "G"). It later transpired that while the crypto wallet account was in Mr E's name it was controlled by the scammer. Mr E has said while he was initially able to view his funds in the account wallet, his access was later blocked. Mrs and Mr E realised they'd been scammed, and their funds were lost.

I should note at this point that, while Mrs and Mr E made two smaller credit card payments to G prior to the £50,000 transfer, this decision will only consider whether HSBC is responsible for the loss relating to the £50,000 transfer. I understand a complaint was previously considered and resolved relating to the credit card payments.

Mrs and Mr E complained to HSBC that it had not done enough to protect them from falling victim to a scam. HSBC said it could not consider whether it had done enough to warn Mrs and Mr E about the scam as they had not responded to its requests for information.

Unhappy with HSBC's response Mrs and Mr E referred their complaint to the Financial Ombudsman. Our Investigator didn't uphold the complaint. While he considered HSBC ought to have done more to question Mr E about the payment, our Investigator was not persuaded that this would ultimately have prevented Mrs and Mr E's loss as he felt that any further research into F would not have revealed that it was a scam.

Mr E disagreed and asked for the complaint to be considered by an Ombudsman for a final decision. He said HSBC had not asked the necessary questions to identify that he was falling victim to a scam.

So, the complaint was passed to me to decide. I issued a provisional decision on 3 April 2025, in which I set out my reasons for upholding the complaint. I explained why I was not persuaded HSBC had done enough to warn Mrs and Mr E about the specific risks associated with their £50,000 payment, and why I thought proper intervention would more likely than not have prevented their loss. For completeness, I copy my provisional findings below:

*"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'm currently minded to uphold this complaint. Like our Investigator, I'm not persuaded that HSBC's intervention in Mrs and Mr E's payment went far enough. But unlike our Investigator, I consider the evidence supports that Mr E would most likely have heeded a clear warning from HSBC, and so I think the loss would, most likely, have been prevented. I'll explain why.*

*In deciding what's fair and reasonable, I am required to take into account relevant law and regulations, regulators' rules, guidance and standards, and codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time.*

*While it is accepted by both parties that Mrs and Mr E have lost money to a scam, in broad terms, the starting position in law is that a bank is expected to process payments its customer authorises it to make. Here, it's evident Mr E knowingly made the payments from the HSBC joint account. I appreciate he was tricked by scammers as he thought it was a genuine investment opportunity. Nevertheless, I'm satisfied the payments were authorised by Mr E. So, under the Payment Services Regulations (in this case the 2017 regulations) and the terms of his account, HSBC are expected to process the payments, and Mrs and Mr E are presumed liable for the loss in the first instance.*

*But, taking into account regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for a bank to take additional steps or make additional checks before processing a payment in order to help protect its customers from the possibility of financial harm from fraud.*

*Should HSBC have recognised Mrs and Mr E were at risk of financial harm from fraud?*

*It's evident that HSBC did recognise Mrs and Mr E were at risk of financial harm, as it intervened each time Mr E attempted to make payments to G (and other companies associated with G).*

*HSBC has evidenced that it stopped an attempted payment of £25,000 to a company associated with G on 2 March 2021, and attempted payments of £100,000 and £25,000 to G on 12 March 2021. On each occasion, Mr E called HSBC to discuss his payments. Mr E was ultimately required to attend a branch to complete his £50,000 payment to G.*

*So, the issue for me to determine is whether HSBC's intervention was proportionate to the risk identified and if not, whether proportionate intervention would, on balance, have prevented Mrs and Mr E's loss.*

*What did HSBC do to warn Mrs and Mr E of the risk?*

*I have seen evidence that HSBC spoke to Mr E on 2, 12 and 14 March 2021. Although HSBC has only been able to provide recordings for two calls, one from 2 March 2021 and one from 12 March 2021.*

*Having listened to both calls, it's clear the advisers recognised there were risks associated with Mr E's payment instructions. But crucially, neither adviser was clear about what the specific risks were, despite Mr E stating on both calls that he wished to invest in crypto.*

*During the call on 2 March 2021 the adviser explain that the payment had been stopped as there were "lots of frauds and scams happening". Mr E acknowledged this and stated that he'd wanted to speak with HSBC anyway to ask some questions. He asked whether HSBC*

was aware of any fraud markers in relation to the account he had sent money to. The adviser confirmed that there were not but advised Mr E to carry out “the necessary checks”. When Mr E asked what those checks were the adviser did not provide any further information. Nevertheless, Mr E acknowledged that he may not have done sufficient checks and so asked for his payment instruction to be cancelled while he carried out more checks.

During the call on 12 March 2021, there is a section of the call where the adviser seeks guidance from a colleague about what he needed to do in this scenario. It was mentioned that the advisers were waiting on guidance to be shared with them on how to address these types of payments. Of note, one of the advisers mentioned that some guidance had been shared regarding social media – I think it’s possible this referred to the risk associated with investments promoted on social media - and yet Mr E wasn’t asked whether he had heard about the investment via social media, which in this case he had. The conversations mostly focused on where Mr E was purchasing crypto from; whether the crypto exchange (G) was legitimate; and whether Mr E had been appropriately verified. There was no discussion around why Mr E had decided to invest, or whether he was being advised by anyone.

Mr E also spoke with HSBC on 14 March 2021, but the notes only reveal that he was told to complete his transaction in branch. HSBC’s records show that Mr E attended a branch on 15 March 2021 to make the £50,000 payment to G, which is the focus of this complaint.

As this intervention happened in person, and there is no recording of the conversation, I can’t know for certain what was specifically discussed. In cases like this where the evidence is incomplete, or contested, I must make a decision based on what I consider to be most likely in the circumstances.

Mr E’s recollection from the branch interaction, is “I went to [...] branch and the duty manager I believe assisted with my request. At no point did he ask me anything about the security of my investment, he went to an office to check the validity of the account the money was being sent”.

Mr E’s recollection seems to be that the conversation once again focused on G, rather than identifying if anyone was guiding or advising him in the investment. This doesn’t seem implausible given the other two interactions Mr E had with HSBC over the phone at around the same time.

The branch notes show that Mr E informed HSBC that he was making a £50,000 payment for an investment and that HSBC’s adviser was satisfied it was a “genuine beneficiary” and a “genuine account”. It was also recorded that Mr E had been asked a set of follow up questions – although I do not have contemporaneous evidence of what these questions were – and there were “no concerns with the answers”.

The notes also indicate the adviser relayed a warning to Mr E, which he acknowledged. Based on the code recorded on the form, and a branch procedures document provided by HSBC, it seems likely Mr E was read the following warning:

“Based on our conversation I’m concerned this may be a scam. Fraudsters are persuasive and appear to offer genuine investments with high returns. They can pressure you to invest or transfer your current pension to a new scheme.

Fraudsters create genuine looking websites. Check the company is genuine and authorised by the Financial Conduct Authority (FCA) on the FCA website before making a payment. You should double check where you’re send the money by contacting them in person using a number you trust.

*By choosing to continue, you agree that we may not be able to recover your payment of £50,000 if it is sent to fraudster's account. If you are not sure for any reason, please don't make the payment."*

*While I can see this warning went some way to warning Mr E about the potential risks associated with the payment, I don't think it went far enough in providing the context around typical crypto investment scams, and most importantly where the risk lay. I'm mindful that the telephone conversations between Mr E and HSBC had focused mainly on the legitimacy of G. As such, I think Mr E could reasonably have interpreted this warning to again be advising him to complete checks on G, not F, who was actually advising him on the investment. As G is registered with the FCA, I think Mr E could have taken false reassurance from this.*

*Overall, I'm not persuaded HSBC did enough through its interventions with Mr E to understand and identify the specific scam risks. Similarly, while I'm mindful Mr E was likely warned that he may be being scammed, I don't think the warning was sufficiently clear about what the scam risks were. And considering all the interactions Mr E had with HSBC, I think having carried out further checks on G, Mr E could have reasonably believed he had guarded against the scam risk.*

*What kind of warning should HSBC have provided?*

*By March 2021, HSBC ought to have been aware of, and on the look out for, crypto investment scams. The FCA and Action Fraud published warnings about crypto scams in mid-2018, which we expect banks to have considered and digested by early 2019. The warning highlighted the fact that scammers were moving away from traditional cold calling and were now contacting people via professional looking websites and social media channels. By 2021, I would also have expected HSBC to be particularly aware of the risks posed by unregulated "brokers" or "account managers" advising on crypto investments.*

*As such, I would have expected HSBC's questioning at each point of intervention to have gone further than it did. For example, it could have asked Mr E how he found out about the opportunity and/or why he decided to invest now; whether anyone was advising him or guiding him in his investment; and whether he had control over the wallet. These are all typical features of crypto investment scams, which HSBC should have been well aware of at the time.*

*If HSBC had provided a warning of the type described, would that have prevented Mrs and Mr E's £50,000 loss?*

*While I can't know for certain how Mr E would have reacted had HSBC asked questions and provided a warning as outlined above, I have carefully considered what I do know about Mr E and his other interactions with HSBC, to reach a conclusion on what I think would most likely have happened.*

*Having carefully considered the interactions Mr E did have with HSBC, I'm satisfied he was open and honest about what he was doing. He answered the questions he was asked honestly and accurately, and even followed up with his own questions seeking to clarify the safety of his investment. As such, I have no reason to doubt that had HSBC's advisers asked Mr E additional probing questions about what he was doing, he would have answered honestly.*

*I think it's most likely that had HSBC asked further probing questions, as I'd expect it to have done, it would have discovered at least some of the following facts - that Mr E had come across F through a social media post; after registering his details online he'd been contacted by a broker/account manager; having made an initial £200 investment Mr E was encouraged*

to invest increasingly larger sums; he communicated with the account manager via a messaging app; that his crypto wallet had been set up for him; and that he had allowed the account manager to access his laptop via remote access software. Each and every one of these factors should have highlighted to HSBC that Mr E was likely falling victim to a crypto investment scam. At this point, I would have expected HSBC to provide Mr E with a clear warning, which provided context to why the things he described were indicative of a scam.

HSBC has suggested that even if it had provided a clearer warning to Mr E, and had it outlined the potential hallmarks of a scam as I have described, it most likely wouldn't have prevented Mrs and Mr E's loss. It has suggested that even if Mr E had been persuaded to carry out more research into F, he would not have found any negative information and would have proceeded with his payment anyway. But I disagree.

I think the evidence suggests Mr E was reasonably cautious and did not want to take unnecessary risks with his money. I think this is demonstrated in the call on 2 March 2021. During the call, Mr E sought reassurance from HSBC that the bank account he was sending funds to had not been flagged as fraudulent. He also confirmed that he'd carried out his own due diligence as he'd checked G's FCA number. But he recognised that he did not know if the account he was sending money to was, in fact, linked with G. As a result, he decided not to proceed with his payment at that time so he could carry out further checks.

Unfortunately, as HSBC had only discussed the legitimacy of G, that appears to be the only thing Mr E sought further clarification on. I can see from Mr E's chat with the scammers that he sought reassurance about the payment method and was provided with new payment details for G.

Having reviewed the chat Mr E had with the scammers, I'm not persuaded that he was so under their spell that he would have been easily persuaded to continue investing had he been properly warned by HSBC. In reaching this view, I have noted that Mr E was cautious, and did not make further payments after the £50,000 payment, as he realised he did not have the control over his funds as he had expected.

While Mr E seemed to be broadly aware of scams, it seems that he was not aware of how crypto investment scams operated. In the circumstances, I think it's most likely that had HSBC highlighted the key hallmarks of a crypto investment scam, most of which applied to his circumstances, I'm not persuaded he would have been prepared to take the risk that his payment may be linked to a scam and that he may lose all his funds. I think it's more likely he would have decided the risk of making the payment was too high and he would have taken heed of this warning from HSBC, which he'd banked with for over 20 years, and would not have gone ahead with the payments.

Should Mrs and Mr E bear any responsibility for their losses?

I have thought carefully about whether Mr and Mrs E should bear some responsibility for their loss by way of contributory negligence (which might justify a reduction in compensation). But I don't think they should.

I'm satisfied that Mr E genuinely believed the investment opportunity was legitimate. He had attempted to carry out due diligence and found nothing to suggest what he was doing was a scam. From my own research I can see that the online warnings about F were only published after Mr E made the payment. And I've seen nothing to indicate Mr E had been promised guaranteed returns or returns that ought to have looked too good to be true, such that I think he should have had reason to doubt the legitimacy of the investment opportunity.

*While HSBC had blocked payments, as I've set out, I think Mr E could reasonably have interpreted from these conversations that the scam risk lay with G, rather than F, and as he had confirmed G was FCA registered this gave him false reassurance that he was not being scammed.*

*In all the circumstances, I don't think there was contributory negligence here. Mrs and Mr E were simply victims of a sophisticated scam, and I can't say they showed a lack of care that went beyond what I would expect from a reasonable person such that it would be appropriate to make a deduction to the compensation due to them.*

*In summary, I'm not persuaded HSBC did enough to warn Mr E about the risks associated with his payment. Had it done so, I think it's more likely than not that Mr E would not have gone ahead with the payment, and therefore the loss would have been prevented. In the circumstances, I think it's reasonable that HSBC should reimburse Mrs and Mr E for their loss and compensate them for their loss of use of the money since.*

Mrs and Mr E accepted my provisional decision. HSBC rejected it. It explained that as there were no concerns based on Mr E's answers to the questions asked in branch, the payment was processed. It highlighted a procedure document which set out that as part of the branch intervention questions, Mr E would have been asked around how the investment opportunity was presented, whether independent advice had been sought and what communication he'd had. HSBC said that while there were no concerns recorded about Mr E's answers, as the payment was over £1,000 a warning was provided, which was acknowledged by Mr E.

### **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 carefully considered this case again, alongside HSBC's recent response and new evidence, I am upholding this complaint for largely the same reasons as I set out in my provisional decision.

I see no reason to revisit my conclusions regarding when I think HSBC ought to have intervened; why I think proportionate intervention would most likely have prevented Mrs and Mr E's loss; or why I don't think Mrs and Mr E should bear any responsibility for their loss, as I have received no challenge on these points. This decision will focus solely on whether HSBC's intervention was proportionate to the risks identified.

Whilst not explicitly stated, HSBC's response to my provisional decision implies that it considers its branch intervention was proportionate to the risk it identified at the time, and therefore it had done all it was expected to do to prevent Mrs and Mr E's loss. But having carefully considered the case again, I am not persuaded HSBC did enough. I also remain of the view that had it intervened as I would have expected it to, Mrs and Mr E's loss would have been prevented.

HSBC has provided a procedure document that lists questions that it says would have been asked in branch before Mr E was able to make his transaction. This included questions about what attracted him to the investment - with a note to remind that high return, low risk investments could potentially be scams; what research had been completed into the company and investment; whether independent advice had been sought; what communication there had been with the company and how he was initially approached.

Even I accept all these questions were put to Mr E, although he has disputed this as explained further in my provisional decision, I'm not persuaded that they were sufficient to

highlight the actual risk associated with the payment. With the exception of the first question that highlighted that high return low risk investments may be a scam, the remainder of the questions provided no context to why they were being asked. Nor did they highlight what the actual scam risks were. There is no evidence of what follow up questions would have been asked or what guidance would have been given if a consumer had provided an answer that may have caused concern.

I consider the questions also failed to address the most significant risk associated with crypto scams, that being what the consumer intended to do with the crypto once purchased. As HSBC should have been aware by 2021, the risk to the consumer arises when they move crypto away from a wallet address in their control, usually under the advice/ guidance of someone else. Knowing this, I would have expected HSBC to ask Mr E not just about where he was purchasing crypto from, but what he intended to do with it afterwards. I would also have expected HSBC to highlight the key features of the most prevalent crypto scams at the time. For example, that scammers may pose as advisers, mentors, or trainers to provide unregulated advice; that scammers can create sophisticated looking fake trading platforms and that scammers may initially allow small withdrawals from a platform before encouraging larger investments.

I have seen no evidence, either in the call recordings or from the branch procedure notes, to suggest that any of these risk factors were highlighted to Mr E.

HSBC has also pointed to the fact that the adviser recorded in the branch note *"no concerns with the answers"*. I don't consider this evidence should be taken to mean HSBC had no reason to have concerns about the payment, only that the cause for concern was not properly identified through its intervention.

As I set out in my provisional decision, I'm persuaded that Mr E would most likely have answered HSBC's questions openly and honestly, as he had done so in his previous interactions. So, the fact that the adviser had no concerns with the answers given, suggests to me the adviser simply didn't recognise the risk from the limited questions they were guided to ask.

I have also considered the warning HSBC said it provided to Mr E. But again, I don't consider it was sufficiently clear about the actual scam risks (as highlighted above) to reasonably expect it to have resonated with Mr E. It set out that fraudsters can offer what appear to be genuine investments with high returns and can create genuine looking websites, and suggested that consumers could protect themselves by checking the FCA website. While this highlighted some very broad scam risks, when considered alongside the questions Mr E was asked both over the phone and in branch, I don't think this was sufficiently clear or impactful.

Overall, I am still not sufficiently persuaded that HSBC did enough to warn Mr E about the risks associated with his payment. I remain of the view that had it done so it's most likely Mr E would not have gone ahead with the payment, and therefore the loss would have been prevented. In the circumstances, I think it's reasonable that HSBC should reimburse Mrs and Mr E for their loss and compensate them for their loss of use of the money since.

### **My final decision**

For the reasons set out above, I uphold this complaint. I require HSBC UK Bank Plc to pay Mrs and Mr E £50,000, plus 8% simple interest calculated from the date of payment (15 March 2021) to the date of settlement (less any tax properly deductible).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E and Mr E to accept or reject my decision before 22 May 2025.

Lisa De Noronha  
**Ombudsman**