

## **The complaint**

Mr E complains that HSBC UK Bank Plc won't refund the money he lost when he fell victim to a scam.

## **What happened**

The details of the complaint are well known to both parties, so I will not repeat them again here. Instead, I will focus on giving the reasons for my decision.

## **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 agree with the investigator's findings for broadly the same reasons. I will explain why.

Banks have various and long-standing obligations to be alert to fraud and scams and to act in their customers' best interests. These are predicated on there having been a fraud or scam. So, a first consideration in determining HSBC'S obligations here would normally be: was Mr E scammed as he alleged and to establish the loss he suffered. And while I don't dispute Mr E's version of events, our service has asked Mr E's representative on several occasions to provide further evidence. Given the circumstances of this complaint and how the scam evolved, I don't think it is unreasonable to conclude that Mr E would be able to provide some evidence of the loss as a result of a scam, such as crypto currency statements showing the funds being transferred to a third-party wallet. Or scam conversations demonstrating the scammer provided Mr E with the aforementioned wallet address.

In any event, in absence of the evidence requested I have considered the events which took place. It's not in dispute that Mr E authorised the disputed payments in question. Between November 2022 and February 2023 Mr E says he fell victim to three scams. He sent payments ranging from £50 to £4,800 to his crypto wallet from his HSBC account (where the funds were subsequently transferred on to the scammer). HSBC would generally be expected to process payments a customer authorises it to make. While I accept that Mr E didn't intend for his money to go to the fraudsters, under the Payment Service Regulations 2017 (PSRs) Mr E is presumed liable for the loss in the first instance as the payments were authorised by him. This is unless there is sufficient evidence that HSBC should fairly and reasonably have done more to protect Mr E.

However, there are many payments made by customers each day and it's not realistic or reasonable to expect a bank to stop and check every payment instruction. There's a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments.

In this case, having assessed Mr E's previous expenditure on his HSBC account I can see that payments one to three of the scam transactions were in line with Mr E's previous

expenditure. Those payments in question ranged from £1,000 to £2,000. Looking at his expenditure in the six months prior to the scam payments, I can see Mr E regularly sent large transactions, and the largest at that time was roughly £10,000 in September 2022. So, I think it is fair to conclude these were all in line with his usual expenditure on the account

Mr E's representative has raised the point that Mr E had never transferred to a crypto currency exchange prior to the scam payments. And while I accept that this was the case, at that time, simply transferring to a crypto currency account in the consumers own name, didn't in itself flag as a heightened risk of fraud, especially considering the firm was a legitimate crypto currency exchange.

So, this accompanied with transaction values which were typical of Mr E's previous spending on the account, I am not persuaded this would have stood out as unusual or suspicious. There are many payments made by customers each day and it's not realistic or reasonable to expect HSBC to stop and check every payment instruction. There's a balance to be struck between identifying payments that could potentially be fraudulent, and minimising disruption to legitimate payments.

However, by the fifth payment made on 10 January 2023 of £4,800 it appears there is a pattern forming and the values of the payments are gradually increasing. And while the payments are in line with Mr E's previous expenditure (and as highlighted by our investigator, at this stage due to the previous payments Mr E had made, the account he was sending the money to, had then become a known payee on the account.) I think there was enough about the characteristics of this transaction and the activity on the account that ought to have been concerning such that HSBC should have intervened.

I am satisfied that it would have been proportionate at that time for HSBC to have issued a written warning outlining crypto currency scams. This type of warning should have highlighted the key features of a crypto currency scam. However, at this stage, the payment he was making was actually part of the 'recovery scam'. As such, a cryptocurrency warning wouldn't have resonated with him. He was already aware he had lost money to a crypto scam and was under the impression he was now 'recovering his lost funds'. Therefore, I am satisfied that a written warning wouldn't have prevented Mr E from continuing to make the payments. And while I appreciate Mr E's representative has made the arguments more ought to have been done to educate Mr E, given what type of warning would have been proportionate, especially at that time, I am satisfied for the reasons outlined above, it wouldn't have prevented Mr E making further payments. As explained, at this stage he believed he was 'recovering his funds and a written cryptocurrency warning wouldn't have alerted Mr E to the fact that he was falling victim to a recovery scam.

## Recovery

I've also looked at whether HSBC took the steps it should have once Mr E contacted them to dispute the payments. It's important to note that Mr E didn't ask HSBC to send the money directly to the scammer but instead to a legitimate cryptocurrency exchange (to an account in his own name under his control). HSBC did as Mr E requested. So, it was always highly unlikely that HSBC would be able to facilitate the recovery of the payment after they were moved on from Mr E's wallet to the scammers. So, it follows that I won't be asking HSBC to do anything further.

## My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 26 May 2025.

Jade Rowe  
**Ombudsman**