

## **The complaint**

Mr E has complained that HSBC UK Bank Plc won't refund the money he lost after falling victim to a scam.

## **What happened**

Both sides are most familiar with the case, so I'll summarise things more briefly.

In summer 2023, Mr E fell victim to a cruel job scam. He was approached by scammers posing as a genuine company, offering a remote job. He was instructed to pay money to his fictional employers to top up his job account, clear negative balances, and earn commission.

Over the course of July and August 2023, the scammers persuaded Mr E to pay them over £12,000. Mr E did this by making card payments or bank transfers from his HSBC account to his own account at a money transfer service. Then he bought cryptocurrency and sent it to the scammers.

In September 2023, Mr E complained to HSBC about the scam. It wasn't possible for HSBC to recover the funds, and they didn't think they were otherwise liable for Mr E's loss.

Our Investigator looked into things independently and didn't uphold the complaint. Mr E appealed, so the complaint's been passed to me to decide.

## **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 understand that Mr E fell victim to a scam, and so he has my sympathy. I appreciate this can't have been an easy time for him, and I appreciate why he wants his money to be returned. It's worth keeping in mind that it's the scammers who are primarily responsible for what happened, and who really owe Mr E his money back. But I can only look at what HSBC are responsible for. Having carefully considered everything that both sides have said and provided, I can't fairly hold HSBC liable for Mr E's loss. I'll explain why.

It's not in dispute that Mr E authorised the payments involved. So although he didn't intend for the money to go to scammers, under the Payment Services Regulations he is liable for the loss in the first instance. And broadly speaking, HSBC had an obligation to follow his instructions – the starting position in law is that banks are expected to process payments which a customer authorises them to make.

HSBC should have been on the lookout for payments which could be the result of fraud or scams, to help prevent them. But a balance must be struck between identifying and responding to potentially fraudulent payments, and ensuring there's minimal disruption to legitimate payments. I've thought carefully about whether HSBC should have done more in Mr E's case.

Here, the payments involved were relatively spread out, such that there was no point where Mr E's spending was quite so large or rapid that I'd expect it to have been of particular concern to HSBC. The payments went to Mr E's own account at a genuine and well-known firm. And Mr E had made many other genuine payments to that firm in the months before, including payments of fairly similar amounts. So I don't think the payments involved were so unusual or out of character that HSBC needed to make person-to-person enquiries with Mr E.

One of the payments was large enough that it would've been worth HSBC asking Mr E what it was for and giving him a tailored warning. But I can see that HSBC did so. Unfortunately, Mr E provided a reason for the payment which was not a true reflection of his situation. So the tailored scam warning HSBC gave him was not relevant to this situation. And I'm afraid I don't think that that was HSBC's fault, nor that they needed to do anything more there.

Lastly, I've considered what HSBC did to try to recover Mr E's money after he told HSBC about the scam. Unfortunately, as the funds had been sent to Mr E's other account and then sent on, there was nothing left to recover there. And payments to one's own accounts are not covered by the CRM Code for scams, either. It also wasn't realistically possible for HSBC to have got Mr E's card payments back via the chargeback scheme. Chargebacks can only be made for certain specific reasons, and there was no reason which applied to this situation. Further, a chargeback would be a claim against the money transfer service, not the scammers, and the transfer service provided the service they were supposed to. So there wasn't really anything more that HSBC could do to get Mr E's money back.

So while I'm very sorry to hear about what happened to Mr E, I don't think HSBC can fairly be held responsible for his loss. And so I can't fairly tell HSBC to refund Mr E's money in this case.

### **My final decision**

For the reasons I've explained, I don't uphold this complaint.

This final decision marks the end of our service's consideration of the case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 20 January 2025.

Adam Charles  
**Ombudsman**