

The complaint

Miss F complains that HSBC UK Bank Plc ('HSBC') won't refund the money she lost when she fell victim to a scam.

What happened

In early June 2023 Miss F received contact via a messaging app from someone who said they had got her number from a recruitment company. Miss F didn't know at the time, but the contact was from a scammer.

Miss F was offered a job which involved helping app developers optimise their apps. Miss F was told she would receive sets of 40 tasks and would be required to click actions for around 30 minutes a day. The salary was 800USDT for five days, 1500USDT for fifteen days and 3,800USDT for thirty days. In addition to this Miss F could earn commission, which would be increased if she received combination tasks.

Miss F was told that to ensure and guarantee she would complete the tasks she needed to pay a deposit to the company. This deposit could be withdrawn with her commission after the set of tasks had been completed. She had access to a platform which showed her balance and the commission earned.

Miss F received a series of combination tasks which required her to pay increased amounts to avoid having a negative balance in her account. She made the following payments to a pre-existing account with B (another bank). From her B account Miss F bought cryptocurrency from various providers which she transferred to the fraudster.

Transaction	Date	Amount
1	06/06/23	£10
2	03/06/23	£5
3	03/06/23	£100
4	04/06/23	£70
5	07/06/23	£260
6	07/06/23	£1,200
7	08/06/23	£4,000
8	08/06/23	£2,000
9	08/06/23	£6,000
10	09/06/23	£5,000
11	10/06/23	£9,000
12	11/06/23	£20,000
13	13/06/23	£4,000

14	13/06/23	£8,000
15	16/06/23	£1,300
16	23/06/23	£3,000
17	23/06/23	£4,572.44
TOTAL		£68,517.44

Miss F realised she was the victim of a scam when she kept being asked to pay further sums before receiving payment. Her representative sent a letter of complaint to HSBC in July 2023.

HSBC didn't agree to reimburse Miss F. It said the funds went to Miss F's account with B that was opened in her name, and she had full access to and control of the account. The funds were moved from Miss F's account with B to the scammer so Miss F should take the matter up with B.

Miss F was unhappy with HSBC's response and brought a complaint to this service. She said HSBC failed to intervene when she made out of character payments.

Our investigation so far

The investigator who considered this complaint initially upheld it in part (from transaction 12 in the table above). HSBC responded and noted that Miss F had made payments to her account with B since May 2022 and had made a previous payment to a third party of £20,000 in March 2023. Given these points, HSBC questioned why it would have had any concerns about a £20,000 transaction to Miss F's own account.

The investigator reconsidered the complaint and didn't uphold it. He said the transactions to B weren't unusual and out of character, so HSBC didn't need to intervene.

Miss F didn't agree with the investigator's findings. She said it was clear from the pattern of payments that a scam was taking place. This was because:

- there were multiple payments on the same day
- payments increased in value over time
- the fact payments were going to an account in Miss F's own name isn't unusual in scams
- there was no valid or legitimate reason for Miss F to send £68,517.44 to an account in her name in 17 transactions over 22 days.

The complaint has 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.

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

The starting point under the relevant regulations (in this case, the Payment Services Regulations 2017) and the terms of Miss F's account is that she is responsible for payments she's authorised herself. And, as the Supreme Court has recently reiterated in *Philipp v Barclays Bank UK PLC*, banks generally have a contractual duty to make payments in compliance with the customer's instructions.

Whilst HSBC was not required or obliged under its terms and conditions to make checks, I am satisfied that, taking into account longstanding regulatory expectations and requirements and what I consider to have been good practice at the time, it should fairly and reasonably have been on the look-out for the possibility of APP fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances – as in practice all banks, including HSBC, do.

When considering whether HSBC acted fairly in processing the transactions to Miss F's own account with B, I need to consider the information it had at the time. All the transactions Miss F has asked HSBC to reimburse were to an established account in her own name at another bank. Miss F had made three previous low value payments (£50 and under) to this account in May and August 2022. So I consider HSBC would have been reassured that Miss F wasn't making payments to an account scammers had asked her to open to facilitate a scam.

The initial payments were low value and were very much in keeping with Miss F's usual account activity. And after they were made the account balance remained healthy. There wasn't a pattern of increasing payments either – although there were higher value transactions as time went on, these were interspersed with lower value transactions.

On 8 June 2023 Miss F transferred £12,000 over three transactions to her account with B. Whilst I recognise that multiple payments in quick succession to a third party account can be concerning, payments to an established account in a customer's own name carry a significantly reduced risk. A few days later Miss F transferred £20,000 to her account with B. But in March 2023 Miss F had transferred £20,000 to a third party, so higher value transactions weren't unusual. After these transactions were made Miss F's HSBC account had a balance that exceeded her balance at various stages before the scam.

Before many of the transfers Miss F transferred funds from her savings account to her current account. I don't consider this to be unusual either.

In addition, several weeks passed between the first transfer on 6 June 2023 and the final payment on 23 June 2023, which may have provided some additional assurance to HSBC that Miss F was making the payments to her B account in ordinary circumstances rather than as a step in a multi-stage scam.

Overall, I'm not satisfied HSBC should fairly have intervened when Miss F transferred funds to her account at B. So, whilst I'm sorry to hear about this cruel scam, I can't reasonably hold HSBC responsible for Miss F's loss.

My final decision

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 14 August 2024.

Jay Hadfield
Ombudsman