

The complaint

Mrs H complains that HSBC UK Bank Plc (HSBC) is refusing to refund her the amount she lost as the result of a scam.

Mrs H is being represented by a third party. To keep things simple, I will refer to Mrs H throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mrs H came across an advertisement online promoting a cryptocurrency investment opportunity with the business 4x.fm (X), whereby Mrs H could make good profits from a low deposit of £250. The advertisement appeared to be endorsed by a well-known celebrity which Mrs H said gave her confidence X was genuine.

Mrs H clicked the link and was taken to a professional looking website where she was asked for her personal contact information. Interested in the opportunity Mrs H completed the online form with her personal information.

Mrs H says she then did an online search on X. There were no warnings published on the FCA website at the time and the website the link had previously taken her to came up in the search results. The website looked professional and had all the trademarks Mrs H associated with a genuine business.

Mrs H then received a call from X where the investment opportunity was explained in more detail. X answered any questions that Mrs H asked and appeared very knowledgeable. X then setup an account with X and told Mrs H she would need to open an account with Foris Dax to facilitate the transfer of funds.

X helped Mrs H through the process of setting up an account via the use of screen sharing software Mrs H was required to install on her device.

Once accounts were setup, Mrs H was able to login to her trading account and see what appeared to be a genuine trading platform.

Mrs H made an initial small payment as directed by X for what it explained was training on how to make trades. X told Mrs H that her account manager would then be in touch.

Mrs H could see the amount she had paid showing on her trading account and that it was slowly increasing each day until another person from X contacted her claiming to be her account manager.

X spoke to Mrs H on the phone but also asked her to download Telegram so they could exchange messages between them. X explained that the investment was going well but to increase profits Mrs H should invest more, which Mrs H agreed with.

X walked through what he was doing regarding trades and managing Mrs H's account with her, but she has explained she didn't always understand.

Mrs H says she recalls HSBC stopping one of her attempted payments and asking her questions. As she was being coached by X on what to say to the bank the payment was processed.

Mrs H says she felt pressured into making further and further payments as X told her that the market was great at the time and it was the correct time to invest. This made Mrs H feel that she could miss out if she waited.

Mrs H tells us that she was later pressured to make further payments into the investment but refused as she had no more funds available. X told Mrs H she needed to add further funds, or she could lose everything. Mrs H says it was at this point she realised she had fallen victim to a scam.

Mrs H made the following payments in relation to the scam:

<u>Payment</u>	<u>Date</u>	<u>Payee</u>	<u>Payment Method</u>	<u>Amount</u>
1	13 January 2023	Train4Trading.com	Debit Card	£247.81
2	10 February 2023	Foris Dax MT	Transfer	£1.00
	10 February 2023	Foris Dax MT	Credit	£70cr
3	10 February 2023	Foris Dax MT	Transfer	£10,000.00
4	10 March 2023	Foris Dax MT	Transfer	£5,000.00
5	1 June 2023	Foris Dax MT	Transfer	£20,000.00
6	16 June 2023	Foris Dax MT	Transfer	£20,000.00
7	19 June 2023	Foris Dax MT	Transfer	£20,000.00
8	20 June 2023	Foris Dax MT	Transfer	£10,000.00
9	30 June 2023	Foris Dax MT	Transfer	£20,000.00
10	3 July 2023	Foris Dax MT	Transfer	£15,000.00
11	12 July 2023	Foris Dax MT	Transfer	£20,000.00
12	13 July 2023	Foris Dax MT	Transfer	£20,000.00
13	14 July 2023	Foris Dax MT	Transfer	£7,000
14	14 July 2023	Foris Dax MT	Transfer	£12,000
	28 November 2023	Train4Trading.com	Credit	£248.49cr

Our Investigator considered Mrs H's complaint and didn't think it should be upheld. Mrs H disagreed, so this 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.

It has not been disputed that Mrs H has fallen victim to a cruel scam. The evidence provided by both Mrs H and HSBC sets out what happened. What is in dispute is whether HSBC should refund the money Mrs H lost due to the scam.

Recovering the payments Mrs H made

Mrs H made the first payment into the scam via her debit card. The payment was made in relation to what X said was "training". I can see this payment was disputed and has since been refunded so I don't need to consider whether it should have been recovered.

The remaining payments Mrs H made were made via transfer. When payments are made via transfer the only recovery option HSBC has available is to request a refund of any remaining funds from the operator of the recipient's account. But as Mrs H was making payments to an account in her own name, any funds that might remain would remain within her control.

With the above in mind, I don't think HSBC had any reasonable options available to it to recover the payments Mrs H made in relation to the scam.

Should HSBC have reasonably prevented the payments Mrs H made?

It has been accepted that Mrs H authorised the payments that were made from her account with HSBC, albeit on X's instruction. So, the starting point here is that Mrs H is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether HSBC should have been aware of the scam and stepped into question Mrs H about the payments she was making. And if it had questioned Mrs H, would it have been able to prevent the scam taking place.

The first payments Mrs H made were for low values that I wouldn't have expected to trigger HSBC's fraud prevention systems. However, when Mrs H made payment three, she was making a payment of a significant value to a well-known cryptocurrency exchange. I think this payment should have caused HSBC to have concerns that the payment could cause Mrs H financial harm, and it should have intervened at this stage.

I can see a call between Mrs H and HSBC did take place. HSBC has provided a recording of this call which I have listened to.

During the call Mrs H was told the payment was held for further checks and asked a series of questions. She confirmed:

- She had made the transaction
- She had previously made a small test payment
- The purpose of the transaction was to send money to her crypto wallet to invest in cryptocurrency
- She had the account with Foris Dax for around three months
- Had no problems withdrawing funds
- She had not been advised and she was not promised high returns
- Was introduced by friends
- She was making the payments directly to the provider
- Only she had access to the account
- No one had told her how to answer the bank's questions or to mislead them

Mrs H had not provided honest information to HSBC when it questioned her which would have made it difficult for HSBC to uncover the scam that was taking place. Mrs H has told us the reason she wasn't honest is because X had coached her in what to say to HSBC to have the payments processed.

With the above in mind, I don't think it's unreasonable that HSBC processed the payment.

Mrs H went on to make many more large payments in relation to the scam without any intervention by HSBC. While I think it would have been reasonable for HSBC to have questioned Mrs H again, I don't think this would have made a difference.

Mrs H was clearly willing to go along with X's instructions and provide false information to have the payments processed. I don't have enough to say Mrs H would have been any more honest with HSBC if it questioned her when she made the remaining payments in relation to the scam. So, it would have been very difficult for HSBC to uncover the scam that was taking place.

As I don't think HSBC missed an opportunity to prevent the scam it is not responsible for Mrs H's loss.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 29 November 2024.

Terry Woodham
Ombudsman