

The complaint

Mrs B complains HSBC UK Bank Plc won't reimburse money she lost when she fell victim to an investment scam.

What happened

In 2022 Mrs B lost over £600,000 to a crypto investment scam. She was tricked into believing she was investing in crypto through a legitimate broker she had found online. Under the instruction of the scammer, Mrs B made a series of Faster Payments from her HSBC account to a legitimate crypto exchange. From there she transferred the crypto to a trading account the scammer helped her set up. Mrs B realised she'd been scammed when the scammer stopped responding to her messages and requests to withdraw her profits. She said she also saw the balance in her trading account disintegrate.

HSBC refused to reimburse Mrs B's losses. So, she referred a complaint to the Financial Ombudsman with the support of a professional representative (who I'll refer to as "C"). Our investigator didn't uphold the complaint, as he was satisfied that HSBC had made reasonable attempts to warn Mrs B of the risks associated with her payments, but she chose to proceed regardless of the risks highlighted to her. The investigator was not persuaded that any further reasonable intervention from HSBC would have prevented Mrs B making the payments, and suffering the loss she unfortunately did.

C asked for the matter to be referred to an Ombudsman for a final decision. It said HSBC should not have allowed Mrs B to make payments that did not pass its internal checks and it was not appropriate to process them just because Mrs B was persistent. It said HSBC should have invoked the Banking Protocol and required Mrs B to attend a branch to make her payments. Had it done so, the scam would have been uncovered and Mrs B's losses prevented.

The complaint has now 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.

Having done so, I have reached the same conclusion as our Investigator. And for largely the same reasons. I realise this decision will come as a disappointment to Mrs B.

There is no doubt that Mrs B has been victim of a sophisticated scam and has lost a significant sum of money due to the deception of scammers. I do not underestimate the impact this has had on her. But in reaching a decision I must consider whether HSBC is responsible for the loss she's suffered. And I don't think it is. So, I don't think HSBC has acted unfairly by not refunding the payments. I'll explain why.

I should explain from the outset that I have summarised this complaint in far less detail than the parties involved. No discourtesy is intended by this. I have concentrated my comments

on what I think is relevant to the outcome of this complaint. If I don't mention a specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

It isn't in dispute that Mrs B authorised the transactions in question. So, while she didn't intend the money to fall into the hands of scammers, she is presumed liable for the loss in the first instance, in line with Payment Services Regulations 2017 (PSRs). And under the terms and conditions of the account, where a valid payment instruction has been received, HSBC's obligation is to follow the instructions Mrs B provides.

However, HSBC is aware, taking longstanding regulatory expectations and requirements into account, and what I consider to be good industry practice at the time, that it should have been on the look-out for the possibility of fraud and made additional checks before processing payments in some circumstances.

It is evident that HSBC did in fact recognise that Mrs B was at risk of financial harm from fraud. It intervened on 14 occasions when Mrs B instructed payments, and spoke with Mrs B on 22 occasions. On each occasion Mrs B contacted HSBC to discuss her payment and to have the blocks removed from her account.

HSBC's advisers sought to understand more about Mrs B's intended payments. The advisers asked why she was making the payments; how she had found out about the investment opportunity; whether she was being advised or guided by anyone; whether she had set up the crypto wallets herself and what checks she'd carried out herself. The advisers also warned that scammers may tell her to give inaccurate answers to the bank.

It is evident from listening to the calls that Mrs B was frustrated with the repeated interventions from HSBC. She viewed the conversations as an unnecessary intrusion into her personal financial freedoms – noting on multiple occasions that it was her money and she should be allowed to use it as she wished, and that she was prepared to take the risks associated with her intended payments, which included the risk that she may lose it all. She also expressed on several occasions her dislike and distrust of banks and banking systems.

There's evidence that Mrs B did not engage openly and honestly with HSBC's advisers. She did not answer questions accurately, for example denying that anyone was helping or guiding her with the payments; that she had set up her crypto wallet herself and denying the use of remote access software. Mrs B was adamant throughout the calls that she was investing herself, having carried out her own research and she was not being helped or guided in anyway. As a result, while HSBC was concerned about the value and destination of her payments, it was not able to specifically identify other key features that would have highlighted the likelihood Mrs B was falling victim to a crypto investment scam.

Nevertheless, HSBC's advisers did repeatedly warn Mrs B about sophisticated investment scams. The advisers explained that investment scams could appear legitimate and have professional websites and marketing information and be promoted by individuals who seemed very knowledgeable. Even though this description bore a striking resemblance to what Mrs B was doing she did not advise HSBC about the broker advising her or seek to carry out any further checks into what she was doing, and instead proceeded with her payments.

I'm also mindful that before Mrs B made payments from her HSBC account, she had made a number of high value payments from another bank account held elsewhere. Her other bank had also intervened on six payments and spoken to Mrs B about where her money was going. In those interventions the bank provided even more detailed descriptions of how

crypto investment scams may be perpetrated, but again Mrs B did not heed these warnings and decided to proceed with her payments.

C has suggested HSBC's intervention didn't go far enough and it should have prevented Mrs B from making the payments, or should have required her to attend a bank branch. C suggested that had HSBC taken further steps Mrs B's losses could have been prevented. But I disagree.

As highlighted above, Mrs B chose to give inaccurate answers to many of the questions she was asked. Consequently, HSBC did not know the true circumstances of what was happening. For example, HSBC did not know about the existence of the broker or the fact that Mrs B had downloaded remote access software to allow someone else to set up her accounts. As such, while it was right to have concerns about the payments, I do not agree that HSBC ought to have known – or had enough reason to highly suspect - that Mrs B was, in fact, falling victim to a scam. But rather, they were reassured by the answers Mrs B provided – that being she was investing independently without any third-party involvement, had done for some time. As such, all HSBC could do was warn Mrs B about the risks associated with her payments. It was ultimately up to Mrs B to decide if she wanted to heed the warnings and make further checks or take further precautions, or whether to proceed with the payments. Mrs B chose the latter.

In any event, I'm not persuaded that even if HSBC had gone further than it did, and required Mrs B to attend a bank branch, or if it had invoked the Banking Protocol, it would have prevented Mrs B's loss.

Mrs B made it clear in her conversations with HSBC that she was not prepared to attend a bank branch, which was suggested when it was initially unable to verify a payment over the phone. In fact, Mrs B responded very angrily to the suggestion that she would be required to go to a branch, which she felt was unnecessary and purely a delaying tactic. She also said she would take legal action if HSBC insisted that she attend a branch.

As such, even if HSBC had taken further steps to intervene in Mrs B's payments, I think it's most likely she would have ignored these interventions, as she had done on numerous other occasions. Even if HSBC had imposed further friction or restrictions in her payments, I think it's most likely Mrs B would have simply transferred her funds to another account – as she had in fact done when she stopped dealing with her original bank and started sending payments from HSBC - that would have enabled her to carry out her transactions, without what she perceived as unwanted and unwarranted interference.

In conclusion, I have a great deal of sympathy with Mrs B being the victim of what was clearly a cruel scam. But it would only be fair for me to direct HSBC to refund her losses if I thought it was responsible – and I'm not persuaded that this was the case. Everything considered, I cannot fairly and reasonably hold HSBC liable in these circumstances. It follows that I will not be asking it to take any further action.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 24 April 2025.

Lisa De Noronha
Ombudsman

