

The complaint

Mr E is unhappy that HSBC UK bank Plc has decided not to refund him after he fell victim to what he says was an investment scam.

Mr E is using a professional representative to bring his complaint. I'll refer to them as C.

What happened

I'll summarise the facts as they are well known to all parties.

Mr E made payments from two of his bank accounts to S. S was offering a range of investments, with promising returns.

From his HSBC account Mr E made two payments, a £1 payment followed by £99,999.00 in November 2018. Mr E says he received no returns on this investment.

One of our investigators looked into things. They said:

- The payments weren't covered by the Contingent Reimbursement Model (CRM).
- She considered if the payments were unusual enough that HSBC ought to have considered if Mr E was potentially at risk of financial harm or at risk of being scammed when they were made. She said looking at Mr E's previous account history these payments didn't represent a scam risk compared to Mr E's usual account activity and Mr E was a known investor, so HSBC didn't need to intervene when Mr E made the payments.
- She went on to say that even if the bank had intervened, she didn't think it would have uncovered a scam. S was active and there were no concerns about S at the time.

C didn't accept and said the payments were abnormal and unusually large. It didn't agree there were numerous high value payments on the account prior to the payments with S. It added that Mr E was cashing in National Savings Premium Bonds to fund the investment with S and this should have been queried with the bank. And his age ought to have been a factor as he was not going to be able to earn back any lost funds, given he was approaching retirement age.

The investigator said these additional points did not change her findings. She said at the time, S would have appeared genuine and there would have been no cause for concern.

As the case couldn't be resolved it's been passed to me for 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've come to the same conclusions as the investigator for largely the same reasons. I'll explain why.

Should HSBC have identified and intervened in Mr E's payment, and would that have prevented it from being made?

Mr E doesn't dispute that he authorised the payments. The starting position under the relevant regulations is that Mr E is responsible for payments he's authorised himself.

Taking into account regulators' rules and guidance, relevant codes of practice, and what I consider to have been good industry practice at the time these payments were made, I think HSBC fairly and reasonably ought to have been on the lookout for out-of-character and unusual transactions and other indications that its customer might be at risk of financial harm from fraud.

However, the payment of £99,999.00 although large, did not represent unusual or out of character activity on Mr E's account. Mr E regularly made similar, if not larger payments in and out of the account. These appear varied in nature in terms of their value and destination but they are regular, throughout the six months prior to the disputed payment. Whilst this was a new payee, there isn't anything unusual about the payee that would indicate a higher risk, to HSBC, of Mr E being scammed. So, I'm satisfied HSBC didn't need to intervene with these payments when they were made.

The bank's primary obligation was to carry out its customers' instructions without delay. Unless there were reasons for the bank to suspect fraud and warn its customer Accordingly.

What matters is what a proportionate intervention by HSBC — at the point Mr E instructed it to make his payment — could reasonably have been expected to uncover about the legitimacy of Company S and his investment in it.

I cannot apply the benefit of hindsight to this finding. I need to consider the information HSBC might have uncovered in the course of a proportionate enquiry to Mr E about the payment at the time he gave that instruction.

While Mr E and C have presented significant concerns about the operation of Company S and the legitimacy of the investment. I must consider what HSBC could reasonably have established in the course of proportionate enquiry to him about his payment back in November 2018.

The bank might have noted that the rate of return being offered by Company S was relatively high. That may often be a sign to prompt concerns about the legitimacy of what is being offered. However, here I don't think it was so high as to be considered too good to be true — either by Mr E or by HSBC. In basic terms, the rate of return (the yield) on a loan or mini-bond will typically vary according to the perceived risks — in particular the default risk. Riskier investments need to offer a higher yield to compensate an investor for bearing the risk that the investment might fail. In other words, a higher than usual rate of return would be expected for a legitimate but risky investment.

But that investment risk isn't at all the same thing as the risk of fraud or scam that I'd expect HSBC to have been alert for. To reiterate, it was not HSBC's role here to advise Mr E about the apparent level of investment risk or its suitability for his needs. And with this in mind, I don't consider a rate of return such as that offered by Company S would necessarily show the investment was fraudulent. It might more commonly reflect a legitimate investment risk (as Mr E believed it did at the time, based on his own due diligence).

It seems to me there was little else that would have prompted HSBC to have believed this was anything other than a potentially risky but legitimate investment at the time. Mr E had been shown persuasive information about the investment. This all appeared to be legitimate. There does not appear to have been obvious information readily available to HSBC (or to Mr E) at that point which would have prompted either party to have believed this was an APP scam. Whilst C has now cited information about S's accounts and financial position that isn't something a bank would typically direct a consumer to research and of course the financial status of a company also doesn't exclusively established whether it's a operating a scam or not either.

In short, I don't think either Mr E or HSBC could reasonably have identified that Company S was potentially fraudulent at the time of Mr E's payment instruction. As a result, I don't find that any proportionate intervention by HSBC in respect of Mr E's payment instruction prior to it being made would have resulted in Mr E withdrawing his payment instruction — or stopped that payment from being executed in accordance with Mr E's wishes at the time. Nor do I find HSBC was at fault in having carried out the payment in line with his instructions.

C has cited lots of different issues with the operation of S at the time Mr E made these payments. However, as C points out, these would have required expertise research to have discovered at the time. HSBC is not required to give investment advice. Only to warn to Mr E about the possible warning signs of scams and the risks of sending his money without making further checks.

And at the time of making this payment from his HSBC account Mr E had already been investing with one of S's linked companies (in May 2018) and hadn't raised any concerns. So, it's unlikely that intervention by HSBC at this point would have resulted in him making different checks or revealing anything that would make him think it wasn't genuine, given his successful investments to date.

C has said that Mr E was vulnerable because of his age and his inability to make up any loss if this turned out to be a scam. But Mr E's age doesn't mean he is automatically vulnerable and I've not seen enough evidence from C or Mr E that this decision would have left Mr E financially vulnerable either. People continue to make investments well beyond retirement age and it is not for the bank to offer investment advice in this scenario.

I'm therefore satisfied that HSBC's decision not to uphold Mr E's complaint or refund his losses here are unreasonable.

My final decision

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 15 December 2025.

Sophia Smith
Ombudsman