

The complaint

Mrs S and Mr S complain that HSBC UK Bank Plc (“HSBC”) hasn’t protected them from losing money to fraud.

The payments were made from Mrs S and Mr S’s joint account, but I understand that Mr S made the payments and was the one who fell victim to the scam, so for ease of reading I’ll refer only to Mr S for the remainder of this decision.

What happened

The background to this complaint is well known to both parties, so I won’t repeat everything here. In brief summary, Mr S has explained that in May and June 2023 he made payments totalling almost £5,000 from his HSBC account as a result of fraud.

Ultimately, HSBC didn’t reimburse Mr S’s lost funds, and Mr S referred his complaint about HSBC to us. As our Investigator couldn’t resolve the matter informally, the case has been passed to me for a 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 decided to not uphold Mr S’s complaint for materially the same reasons as our Investigator.

First, let me say, I don’t doubt Mr S has been the victim of fraud here. He has my sympathy. Ultimately, however, Mr S has suffered his loss because of fraudsters, and this doesn’t automatically entitle him to a refund from HSBC. It would only be fair for me to tell HSBC to reimburse Mr S his loss (or part of it) if I thought HSBC reasonably ought to have prevented the payments (or some of them) in the first place, or HSBC unreasonably hindered recovery of the funds after the payments had been made; and if I was satisfied, overall, this was a fair and reasonable outcome.

I’m satisfied Mr S authorised the relevant payments. HSBC would generally be expected to process payments a customer authorises it to make. And under The Payment Services Regulations and the terms and conditions of the account, Mr S is presumed liable for the loss in the first instance, in circumstances where he authorised the payments. That said, as a matter of good industry practice HSBC should have taken proactive steps to identify and help prevent transactions – particularly sufficiently unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there are many payments made by customers each day and it’s not realistic or reasonable to expect HSBC to stop and check every payment instruction. There’s a balance to be struck between identifying payments that could potentially be fraudulent, and minimising disruption to legitimate payments (allowing customers ready access to their funds).

Here, having reviewed Mr S's account and the payments he made to the scam, I'm not persuaded HSBC ought to have found any of the payments sufficiently suspicious, such that it ought to have made further enquiries of Mr S before processing them. I accept that the payments were to a crypto provider, but that doesn't mean payments should automatically be treated as suspicious. Here, the payments were individually and collectively, spaced as they were, not of the type that I could reasonably expect HSBC to have been concerned about them. And whilst I note that HSBC spoke to Mr S about his payment for £602, I think what our Investigator said about this was fair – that HSBC's conversation with Mr S about it was reasonable and proportionate. I'm aware that Mr S continued to make payments even after he notified HSBC that he'd been scammed, and I agree with our Investigator that in this case it wouldn't be fair to hold HSBC responsible for this. When Mr S first reported to HSBC that he'd been scammed, HSBC did warn him that fraudsters often target people more than once. And bearing in mind what I've said about the payments, and the fact that not all crypto-related payments are made as a result of a scam, I don't think it would be fair here to hold HSBC responsible for this. This means I can't fairly say HSBC unreasonably failed to prevent the payments, or that it should be held responsible for Mr S having made and lost them.

The only potential avenue to have recovered debit card payments like this, after they were made, would have been via the chargeback scheme. However, Mr S made the payments to the crypto exchange (and not directly to the scammers). This means the merchant here, for chargeback purposes, would be the crypto exchange (and not the scammers). The crypto exchange would have legitimately provided the services intended. The subsequent transfer of the cryptocurrency onto the scammers would not give rise to a valid chargeback claim through HSBC. So I don't think these payments were recoverable through HSBC once they had been made.

I'm sorry Mr S was scammed and lost this money. But despite my natural sympathy, I can't fairly tell HSBC to reimburse him in circumstances where I'm not persuaded it reasonably ought to have prevented the payments or to have recovered them.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S and Mr S to accept or reject my decision before 10 March 2025.

Neil Bridge
Ombudsman