

## **The complaint**

Mr J complains that HSBC UK Bank Plc didn't fairly deal with two payments he says he made to an investment scam.

## **What happened**

In September 2023, Mr J found an investment opportunity on social media. He sent two payments to the company to open accounts, and to invest and trade with these funds. Mr J wasn't able to access the accounts and realised a short-while later that he'd been the victim of a scam.

Mr J contacted HSBC about the payments, but it didn't investigate his concerns at that time. After raising a complaint and having multiple calls with HSBC, it looked into the payments and his complaint. It said that Mr J was now out of time for a chargeback claim to be considered, but also that his payments didn't benefit from this process. It recognised it had provided poor service and inconsistent information in relation to his claim and offered £350 compensation for this.

Mr J came to our service. Our Investigator increased the compensation award but didn't uphold Mr J's complaint about the payments. Mr J asked for an Ombudsman to review the case on this point, as he'd received a refund from another bank and was unhappy with the lack of investigation into the payments. Both parties were issued with emails inviting them to submit further submissions and the deadline for this passed some time ago, so the case has been assigned 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 taken into account longstanding regulatory expectations and requirements, and what I consider to be good industry practice, HSBC ought to have been on the look-out for the possibility of fraud and made additional checks before processing payments in some circumstances.

I have reviewed Mr J's account and the payments he says he made to this scam. Having considered when they were made, their value and who they were made to, I'm not persuaded HSBC ought to have found any of the payments suspicious, such that it ought to have made enquires of Mr J before processing them. They weren't of particularly high value and were in line with other spending on his account.

I'm in agreement with our Investigator that Mr J hasn't provided the evidence we'd expect to substantiate that these payments were made as part of a scam. But I don't feel this impacts the overall decision here, as the core outstanding concerns relate to Mr J's chargeback claim.

Our Investigator set out that HSBC incorrectly provided Mr J with chargeback rights –

something it has acknowledged – and based on the evidence we hold, I think this is correct. I'll explain why.

There are strict rules which govern the chargeback process and these must be followed by the a firm making a claim. The chargeback process is broadly designed for situations where the goods or services paid for haven't been received by the customer, not for scam situations. And there's specific rules that cover making a claim when someone has paid money to invest. To claim under the rules, Mr J would need to have successfully invested, and then tried to withdraw from this investment and been unable to. And he would need to provide evidence of his available balance and this attempted withdrawal to substantiate his claim.

This isn't the situation Mr J found himself in. His representative set out that he understood he was paying the funds to access trading accounts to then trade. He hadn't, at this time, attempted to make any withdrawals as he encountered problems with the merchant when trying to access his account. But the money was paid to invest on this platform. Based on this, the chargeback process wasn't the right route for Mr J to reclaim his funds.

I understand that another firm has treated his situation differently and he has had some money refunded. But I can only look at what HSBC ought to have done – and I don't consider HSBC was ultimately wrong not to pursue a chargeback claim in this case.

However, I accept that HSBC should've given Mr J this information when he first contacted it. And it shouldn't have later suggested the reason he couldn't claim was due to time limits. The chargeback rules do have time limits and 120 days is one of these. But I accept Mr J contacted HSBC within this time – and this isn't the actual reason the claim couldn't progress. His situation simply isn't covered by these rules. I have considered if there were any other ways Mr J's money could've been recovered, but I don't think there were.

Mr J was put to considerable inconvenience in trying to get his claim looked at and given misinformation by HSBC. So I agree that he is due a compensation award for this.

HSBC awarded Mr J £350 for the service received while handling his claim, but I'm in agreement with our Investigator that a higher award is due. I can see that both parties did agree to a £500 total award prior to the case going to decision. But for completeness, I think this is fair because Mr J and his representative made 15 phone calls to HSBC and their complaints were not handled promptly or correctly. Mr J's expectations weren't managed and he was given incorrect information on more than one occasion, so the additional compensation is warranted.

I recognise Mr J is most likely out of pocket due to the payments he made in September 2023. But I can only uphold his merits complaint if I'm satisfied HSBC's failings made a material difference to the recovery or refund of these funds. For the reasons given, I'm not persuaded that they did.

### **Putting things right**

I understand HSBC UK Bank Plc has already paid Mr J £350 compensation. So it needs to pay him a further £150 compensation, so the total compensation he's received is £500.

### **My final decision**

For the reasons set out above, I partially uphold Mr J's complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 14 March 2025.

Amy Osborne  
**Ombudsman**