

The complaint

Mr and Mrs F are being represented by solicitors. They're complaining about HSBC UK Bank Plc because it declined to refund money they lost as a result of fraud.

What happened

Sadly, Mr F fell victim to a cruel investment scam. He responded to an advert he saw on social media and set up what he thought was a legitimate investment trading account with the scammers. He moved money from a HSBC account held jointly with his wife to another account set up in his own name with an Electronic Money Institution (EMI). The money was then moved onto the scammers from that account. Between March and August 2023, Mr F made the following payments to his EMI account that were ultimately lost to the scam:

Date	Amount
3/10/2023	£750.00
3/10/2023	£9,000.00
3/16/2023	£5,000.00
3/23/2023	£5,000.00
3/29/2023	£5,000.00
4/10/2023	£7,000.00
4/11/2023	£8,000.00
4/12/2023	£7,000.00
4/13/2023	£8,000.00
4/26/2023	£5,000.00
5/3/2023	£7,000.00
5/4/2023	£8,000.00
5/5/2023	£5,000.00
5/17/2023	£5,000.00
5/18/2023	£8,000.00
5/19/2023	£7,000.00
7/24/2023	£9,000.00
7/31/2023	£9,000.00
8/2/2023	£9,000.00
8/3/2023	£3,000.00
8/14/2023	£10,000.00
8/16/2023	£10,000.00
8/23/2023	£10,000.00

On 4 August 2023, Mr F made a payment of £5,000 to another bank account in his own name that I understand he'd held for some time. This is included in the list of payments provided by his solicitors but it doesn't fit the description of the scam provided and I've not included it in the above list as it's not clear it was part of the scam.

Mr F says he realised this was a scam when he was asked to pay £50,000 to withdraw his profits. HSBC says he notified it about the scam on 20 November 2023.

Our investigator didn't recommend the complaint be upheld. He noted HSBC had contacted Mr F in connection with some of the earlier payments. But after listening to recordings, he felt Mr F was disinterested in the calls and didn't think further interventions in connection with the later payments would have prompted him to stop making payments.

Mr and Mrs F didn't accept the investigator's assessment and their representative made the following key points:

- The bank's interventions weren't sufficient. Mr F was vulnerable due to his age. And while he may have presented himself as a senior person in a company providing financial services, that doesn't mean he was an expert in spotting scams.
- The interpretation that Mr F was disinterested in the calls is subjective and it shouldn't be assumed that he wouldn't have listened to appropriate warnings from the bank.

The complaint has now been referred to me for review.

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 reached the same overall conclusions as the investigator, and for broadly the same reasons. I haven't necessarily commented on every single point raised but concentrated instead on the issues I believe are central to the outcome of the complaint. This is consistent with our established role as an informal alternative to the courts. In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time.

In broad terms, the starting position at law is that a bank such as HSBC is expected to process payments a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of their account. In this context, '*authorised*' essentially means the customer gave the business an instruction to make a payment from their account. In other words, they knew that money was leaving their account, irrespective of where that money actually went.

In this case, there's no dispute that Mr F authorised the above payments.

There are, however, some situations where we believe a business, taking into account relevant rules, codes and best practice standards, shouldn't have taken its customer's authorisation instruction at 'face value' – or should have looked at the wider circumstances surrounding the transaction before making the payment.

HSBC also has a duty to exercise reasonable skill and care, pay due regard to the interests of its customers and to follow good industry practice to keep customers' accounts safe. This

includes identifying vulnerable consumers who may be particularly susceptible to scams and looking out for payments which might indicate the consumer is at risk of financial harm.

Taking these things into account, I need to decide whether HSBC acted fairly and reasonably in its dealings with Mr F.

The payments

On the subject of vulnerability, I don't think HSBC should have treated Mr F differently simply because of his age. The calls with the bank that took place at the time, which I'll come back to later, show he was still working in a senior position and I didn't perceive anything in the way he communicated and conducted himself that should have led HSBC to think he wasn't capable of making his own decisions about his finances.

This notwithstanding, HSBC identified that Mr F might be at risk of harm from fraud and blocked the second, third and fourth payments above (dated 10, 16 and 23 March respectively) until it had spoken to him. Having considered what it knew about the payments at the time it received the payment instructions, I'm satisfied this was a reasonable approach. Mr F was paying large sums to a new account and it would have known that many scams are multi-layered and involve the use of an EMI as part of the chain before money is paid to the scammer.

I've listened to the recordings of Mr F's conversation with HSBC on each of these occasions. Having done so, I'm not persuaded the bank's agents could reasonably have done anything else that would have led to the scam being uncovered.

During the calls, Mr F did disclose that the money was intended for investing in securities via a broker in Switzerland. But he was clear that he wasn't investing in cryptocurrency and was only doing what he'd done previously with brokers in the UK. He also repeatedly said that he was a senior person at a firm that provides financial services (I haven't named his specific job here to prevent him being identified) and that he knew as much about fraud and scams as HSBC. He was aware the conversations were checking for fraud but was adamant he wasn't being scammed.

In addition, it seems clear Mr F was annoyed at the process and seemed reluctant to fully engage. He repeatedly said he was '*cheesed off*' with being asked questions about what he was doing with his money. Beyond saying he was investing in securities, he declined to provide further details about the investments he was proposing to make, saying that was his business and nothing to do with HSBC. He also said he'd be making further investments in the future and didn't want to be questioned in this was every time he did so. At one point he went as far as to say he'd close his HSBC account and move his money elsewhere if this continued.

Mr F and his representative have detailed the reasons he believed he was making genuine investments. These include:

- He initially saw the investment opportunity on Facebook, which he believed would be able to vet and remove fraudulent adverts. The advert also appeared genuine and well put together and mentioned a minimum deposit of £250, which he believed to be a low-risk amount.
- He carried out his own online research and found only positive reviews.
- He spoke to the scammers and found them to be very professional and knowledgeable and they were able to answer his questions. They appeared to be

making profits from investing, giving the impression they knew what they were doing.

- The scammers provided regular updates on the investments, and were able to provide advice on the opportunities to invest more. They were also able to assist with setting up accounts and completing trades on his behalf.
- He was given access to a platform, for which he had his own account and login details. He found this to be genuine and well-made and he was able to log in and complete his own trades if he wished. He could see the movement of funds in the account, including up to date balances and profits, as well as other investments he could opt for.

Based on these comments, it seems Mr F was fully taken in by the scam and this probably explains his demeanour when he was contacted about the payments.

The success of any intervention by HSBC was reliant to a large degree on Mr F engaging with the process and explaining what he was trying to do with his money. It seems he wasn't willing to engage in this way and I don't therefore think it's reasonable to expect that the bank should have identified a scam was probably taking place or the nature of that scam so it could provide a tailored and potentially impactful warning.

HSBC didn't intervene in the payment process again after 23 June 2023. But beyond that date, payments were going to a known and trusted payee (an account with an EMI in Mr F's own name) and a pattern of payments was becoming established. So, setting aside the fact that Mr F had expressed a number of times that he didn't want to be asked about future payments, I can see why HSBC may have felt the risks involved with the payments were lower than it might have thought at the outset.

Mr F's representative believes further interventions should have been attempted with later payments and, in view of the amount involved and the frequency of payments, I can see the logic to that argument as well. But if I were to take the view that HSBC should have done more, that would only lead to me requiring HSBC to reimburse money if I thought such interventions would have prompted Mr F to decide not to continue with the payments.

Based on the calls that did take place and the information that's been provided, I don't think there was anything HSBC could reasonably have done to help Mr F uncover the scam. I've no reason to think he'd have been any more welcoming to further attempts from the bank to discuss the payments than he had been previously. He seems to have been taken in by the scammers and convinced he was making a genuine investment. Negative information about the investment company he was dealing with did begin to emerge during the time he was making the above payments, including from the regulator. But, as I've said before, if he wasn't willing to go into more detail about what was happening, I don't think HSBC could reasonably have been expected to identify this was probably a scam and provide a more detailed warning or point him to other resources that might have helped confirm that for him.

I want to be clear that it's not my intention to suggest Mr F is to blame for what happened in any way. He fell victim to a sophisticated scam that was carefully designed to deceive and manipulate its victims. I can understand why he acted in the way he did. But my role is to consider the actions of HSBC and, having done so, I'm not persuaded these were the cause of his losses.

Recovery of funds

I've also looked at whether HSBC could or should have done more to try and recover Mr F's losses once it was aware the payments were the result of fraud.

Mr F transferred funds to a legitimate account with an EMI in his own name. From there, he moved it to accounts controlled by the scammers. HSBC could only attempt to recover funds from Mr F's EMI account and it appears all the money had already been moved on and, if not, anything that was left would still have been available to him to access.

In addition, I understand Mr F first notified HSBC of the fraud in November 2023, nearly three months after the last payment. It's a common feature of this type of scam that the fraudster will move money very quickly to other accounts once received to frustrate any attempted recovery.

With these points in mind, I don't think anything that HSBC could have done differently would likely to have led to those payments being recovered successfully.

In conclusion

I recognise Mr F has been the victim of a cruel scam and I'm sorry he lost such a large amount of money. I realise the outcome of this complaint will come as a great disappointment but, for the reasons I've explained, I don't think any further intervention by HSBC would have made a difference to the eventual outcome and I won't be telling it to make any refund.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F and Mrs F to accept or reject my decision before 12 March 2025.

James Biles
Ombudsman