

## The complaint

Mr W complains that HSBC UK Bank Plc ('HSBC') won't refund the money he lost to a job scam.

He's being represented. To keep things simple, I'll refer to Mr W throughout this decision.

## What happened

The background to this complaint is known to both parties, so I won't repeat all the details here.

In summary, in October 2023, Mr W was contacted about an online job opportunity by an individual (a scammer) claiming to be from a company (I'll call 'X'). For the job itself, it was explained his role at X would involve surveying *apps*. And that he'd earn commission for completing sets of 'tasks'.

As part of the process, he was required to deposit his own money to fund his 'work' account. These funds were paid in cryptocurrency which he bought either by sending money from his HSBC account directly to legitimate crypto-exchanges or by first transferring his funds from HSBC to other accounts he held with two other 'payment service providers' (Revolut and Wise). It was this cryptocurrency that was sent and lost to the scam.

He realised he'd been scammed when he was repeatedly assigned new 'combination tasks' to complete and told he needed to pay more to access his money. By that time, however, over £14,000 had been sent to the scam between late October and early November 2023.

Below are the transactions I've considered as part of this complaint. To note, some of the money used to fund the scam came from loans Mr W took out with external lenders.

	Date	Payment type	Amount
1	27-Oct-23	Card payment to Revolut	£85
	28-Oct-23	<i>Credit from Revolut</i>	<i>£700</i>
2	30-Oct-23	Card payment to Revolut	£200
3	30-Oct-23	Card payment to Revolut	£200
4	30-Oct-23	Card payment to Revolut	£500
5	30-Oct-23	Card payment to Revolut	£300
6	31-Oct-23	Card payment to Revolut	£1,400
7	31-Oct-23	Card payment to Wise	£4,217.64
8	01-Nov-23	Payment to Wise (then reversed)	£5,000
9	01-Nov-23	Payment to Wise (then reversed)	£4,200
10	02-Nov-23	Payment to Zenofi UAB	£1,500
11	03-Nov-23	Payment to Zenofi UAB	£3,200
12	03-Nov-23	Card payment to Neocrypto	£1,236
13	06-Nov-23	Card payment to Revolut	£15

14	06-Nov-23	Card payment to Revolut	£490
15	06-Nov-23	Card payment to Neocrypto	£2,137

The scam was reported to HSBC in November 2023. A complaint was raised and later referred to our Service. Our Investigator considered it and didn't uphold it. In brief, he noted HSBC had intervened on some of the disputed payments and, given Mr W wasn't honest about what he was really doing, he wasn't persuaded the scam would have been unravelled even if HSBC had probed more on the circumstances surrounding his payments.

As the matter couldn't be resolved informally, it's 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've reached the same conclusions as the Investigator and for similar reasons.

#### *Authorisation*

It's not in dispute Mr W was scammed and I'm sorry about the impact the whole experience has had on him. It's also not in dispute he authorised the payments from his HSBC account. So, although he didn't intend the money to go to a scammer, under the Payment Services Regulations 2017, Mr W is presumed liable for his losses in the first instance. And as the Supreme Court reiterated in *Philipp v Barclays Bank UK PLC*, banks generally have a contractual duty to make payments in compliance with the customer's instructions.

#### *Prevention*

There are, however, some situations where I consider that a firm (like HSBC) taking into account relevant rules, codes and best practice, should reasonably have taken a closer look at the circumstances of a payment – if, for example, it's particularly suspicious.

Like the Investigator, I don't think there was enough about the payments in October 2023, looking at their values and their destination, for HSBC to have intervened on suspicion Mr W was at a heightened risk of fraud. And while I think there was probably enough about some of the payments in November 2023 for HSBC to have had concerns of a possible scam risk, I'm not persuaded a level of questioning proportionate to the risk presented would have likely unravelled the scam, such that I can reasonably hold HSBC responsible for Mr W's losses.

As referred to by the Investigator, HSBC did in fact intervene and questioned Mr W to find out more about the circumstances of some of his payments. In a call, on 1 November 2023, Mr W was asked about his reasons for making payments of £5,000 and £4,200 to Wise. As noted above, these were ultimately reversed to Mr W's HSBC account and don't represent a loss. In response, Mr W said he was using the money to pay *"family and friends"*. When asked why he wasn't sending the money directly from the HSBC account, Mr W said it was because he was sending it *"internationally"*. And when the agent probed more about who the money was going to abroad, Mr W replied *"it's for my family...I don't really need to give you any reason...it's for my family, that's all I need to say...I need to give them money so I need to send it, that's my reason"*. Mr W was then warned that some HSBC customers had been coached by fraudsters into not telling the truth when speaking to the bank about the payment reason. And I note that when Mr W was asked if anyone had asked him to mislead the bank, he said *"no, no they haven't"*. Towards the end of the call, Mr W confirmed he was not under

any duress to make the payments, even though I can see (from the scam chat) he'd already encountered 'combination tasks' and had started to borrow funds in order to 'clear' them.

In a call, on 2 November 2023, Mr W spoke to HSBC about a payment he was making of £1,500, this time to a crypto-exchange. When asked to provide some details about the purpose he said *"I'm going to buy crypto"*. When asked if he was investing in cryptocurrency, Mr W replied *"yes I am"*. And when asked about how he'd found out about the investment, Mr W said it had been *"referred to him by a colleague"*. He confirmed no-one had helped him to open his crypto-wallet and that no other third-party was involved. Mr W was then provided with some warnings relevant to cryptocurrency investment scams, including being pressured into paying fees in order to withdraw funds. And again at the end of the call he confirmed no-one had asked him to make the payments for a different payment purpose.

I can appreciate why, as evidenced in the scam chat, Mr W found the payment blocks from HSBC (and other firms) frustrating. I realise the scam operated in such a way that made him think more payments were needed for him to access his funds. And, in my view, it's arguable HSBC's calls could have been better in parts. At the same time though, considering the tone and content of the calls, I'm satisfied Mr W was intent on making the payments without disclosing what he was really involved in. I can't ignore his answers to some key questions didn't lead naturally to HSBC being able to provide warnings relevant to his situation at the time. And, considering Mr W was seemingly under the scammer's 'spell' to the extent he was prepared to give misleading answers when questioned, I'm not convinced things would have played out differently even if HSBC had probed further or intervened more often than it did.

This isn't a decision I've made lightly. I'm again sorry Mr W was the victim of a cruel scam. I can understand why he wants to do all he can to recover his money. But I can only direct HSBC to refund his losses if I'm satisfied any failings on its part made a material difference to what happened. For the reasons I've given I'm not convinced that they did. And, in terms of recovery, I'm satisfied there was little HSBC could have done given that, for the transfers, the funds had been sent to the scam by the time the matter was reported while, for the card payments, a chargeback is unlikely to have succeeded given the merchants provided Mr W with the products/services as intended (before the funds were lost to the scam).

### **My final decision**

For the reasons above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 5 June 2025.

Thomas Cardia

**Ombudsman**