

The complaint

Miss E complains that HSBC UK Bank Plc (HSBC) is refusing to refund her the amount she lost as the result of a scam.

Miss E is being represented by a third party. To keep things simple, I will refer to Miss E throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Miss E was searching for a new role and had submitted her CV to several places online. Miss E then received a message via a well-known messaging application offering her an online freelance position with a company I will call X.

The new job required Miss E to download an application which allowed access to X's platform where Miss E was required to complete 40 tasks that required deposits to be made via cryptocurrency. Miss E was told her funds would be returned to her.

On completion of the required amount of tasks Miss E requested a withdrawal but was told she would have to make further payments and complete further tasks first. At this point Miss E thought she may have fallen for a scam and visited a HSBC branch where this was confirmed.

Miss E has disputed the following payments:

Payment	Date	Payee	Payment Method	Amount
1	26 August 2023	Simplex Nevadaex	Debit Card	£750.00
2	26 August 2023	Simplex Nevadaex	Debit Card	£775.00
3	28 August 2023	Simplex Paybis	Debit Card	£2,500
4	29 August 2023	Simplex Nevadaex	Debit Card	£1,412.50
5	3 September 2023	Paybis Simplex	Debit Card	£1,500.00
6	6 September 2023	Simplex Nevadaex	Debit Card	£1,800.00
7	6 September 2023	Simplex Nevadaex	Debit Card	£2,000.00
8	6 September 2023	Simplex Nevadaex	Debit Card	£1,800.00
9	6 September 2023	Simplex Nevadaex	Debit Card	£5,000.00
10	6 September 2023	Simplex Nevadaex	Debit Card	£5,000.00
11	8 September 2023	Simplex Nevadaex	Debit Card	£650.00
12	8 September 2023	Simplex Nevadaex	Debit Card	£10,000.00
13	8 September 2023	Simplex Nevadaex	Debit Card	£4,655.00
14	8 September 2023	Simplex Nevadaex	Debit Card	£52.00
15	8 September 2023	Simplex Nevadaex	Debit Card	£4,000.00

Our Investigator considered Miss E's complaint and thought it should be upheld in part. Both Miss E and HSBC disagreed, so this complaint has 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.

It has not been disputed that Miss E has fallen victim to a cruel scam. The evidence provided by both Miss E and HSBC sets out what happened. What is in dispute is whether HSBC should refund the money Miss E lost due to the scam.

Recovering the payments Miss E made

Miss E made payments into the scam via her debit card. When payments are made by card the only recovery option HSBC has is to request a chargeback.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid and potentially succeed. Time limits also apply.

Miss E didn't make the payments directly to the scammer. Instead, she made payments to a legitimate cryptocurrency exchange. As there is no dispute that cryptocurrency was provided to Miss E in exchange of the payments, and it took further steps for the funds to be sent to the scammer, any attempt at a chargeback would have no prospects of success.

With the above in mind, I don't think HSBC had any reasonable options available to it to recover the payments Miss E has disputed.

Should HSBC have reasonably prevented the payments Miss E made?

It has been accepted that Miss E authorised the payments that were made from her account with HSBC, albeit on X's instruction. So, the starting point here is that Miss E is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether HSBC should have been aware of the scam and intervened when Miss E made the disputed payments. And if it had intervened, would it have been able to prevent the scam taking place.

The first payments made in relation to the scam, although being made to a cryptocurrency exchange, were not of such a high value that I would have expected them to have caused HSBC to have concerns.

However, by the time Miss E made payment 7 she had made the second of two payments the same day to a known cryptocurrency exchange, and the total amount she had paid that day was more than £3,000. Considering HSBC would have known at the time that payments to cryptocurrency exchanges carried a higher level of risk I think it should have, at the time Miss E made payment 7, had concerns that she may have been at risk of financial harm, and it should have intervened.

I think an appropriate intervention would have been for HSBC to have provided a tailored

written warning that covered off aspects of common scams that included job scams, that at the time were a common scam type.

As Miss E had no desire to lose her money, I think it's most likely that a scam warning of the type I have listed above would have caused Miss E to consider the payments she was making, and it's unlikely any further payments would have been made. HSBC is therefore responsible for Miss E's loss from payment 7 onwards.

I understand HSBC has previously said the trigger point used of payment 7 is not consistent with previous decisions our service has reached. But I would like to remind HSBC that every case is considered on its own merits and for the reasons I have outlined above I think payment 7 was an appropriate point for HSBC to have intervened.

Should Miss E share responsibility for her loss?

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their decisions (see s.1C(d) of our enabling statute, the Financial Services and Markets Act 2000).

In the circumstances, I do think it would be fair to reduce compensation by 50% on the basis that Miss E should share blame for what happened. Miss E agreed to make payments in relation to a new role that had been offered to her via a messaging application.

I don't think the above aspects of the role, and offer of employment are common, and I think they should also have caused Miss E to have concerns. Had Miss E researched the type of job she had been offered it is likely she would have become aware of the scam and prevented her loss.

Miss E has said HSBC should pay her back more of her loss due to payment limits it has in place for cryptocurrency not being adhered to. But HSBC has explained that the policy that included the limits was launched on 29 August 2023 and required manual input of cryptocurrency merchants to ensure that the payments would flag. The cryptocurrency provider Miss E made payments to was not added to this list until January 2024. Given the payment limits are a commercial decision made by HSBC, and that the cryptocurrency exchange was not on their list of payees at the time the payments were made, I can't say the limits should have applied in the circumstances.

Having taken everything into account I think my decision outlined above is fair and reasonable.

Putting things right

To put things right I require HSBC UK Bank Plc to:

- Refund all the payments Miss E made in relation to the scam from payment 7 onwards, less 50% for contributory negligence.
- Add 8% simple interest to the amount it pays Miss E from the date the payments were made until the date it makes the payment (less any lawfully deductible tax)

My final decision

I uphold this complaint and require HSBC UK Bank Plc to put things right by doing what I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept

or reject my decision before 20 June 2025.

Terry Woodham
Ombudsman