

The complaint

Mr C complains that HSBC UK Bank Plc (HSBC) is refusing to refund him the amount he lost as the result of a scam.

What happened

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

In summary, Mr C tells us he saw an advertisement online for an investment company I will call X. Interested in the opportunity Mr C left his contact information on X's website and later received contact from it.

X explained the investment opportunity and that Mr C could gain a substantial profit from investing. Mr C decided to invest, sending funds via a cryptocurrency exchange.

After a short time, X stopped responding to Mr C's messages and Mr C realised he had fallen victim to a scam.

Mr C made the following payments in relation to the scam:

Payment	Date	Payee	Payment Method	Amount
1	17 August 2023	Payward Ltd	Open banking transfer	£1,000
2	23 August 2023	Payward Ltd	Open banking transfer	£2,500
3	6 September 2023	Payward Ltd	Open banking transfer	£2,499
4	7 September 2023	Payward Ltd	Open banking transfer	£100

Our Investigator considered Mr C's complaint and didn't think it should be upheld. Mr C 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 Mr C has fallen victim to a cruel scam. The evidence provided by both Mr C and HSBC sets out what happened. What is in dispute is whether HSBC should refund the money Mr C lost due to the scam.

Recovering the payments Mr C made

Mr C made payments into the scam via open banking to purchase cryptocurrency that was then forwarded to X as part of the scam. Given there's no dispute that Mr C was provided the cryptocurrency, which was subsequently sent to X, HSBC would not have any reasonable options available to it to recover the payments in dispute.

Should HSBC have reasonably prevented the payments Mr C made?

It has been accepted that Mr C authorised the payments that were made from his account with HSBC, albeit on X's instruction. So, the starting point here is that Mr C 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 the payments were made. And if it had intervened, would it have been able to prevent the scam taking place.

The payments listed above that were successfully processed were not of such a significant value that I would have expected them to trigger HSBC's fraud prevention systems prompting it to intervene.

However, Mr C did attempt a separate payment of £5,000 to the same payee on 4 September 2023. This payment was stopped as it exceeded HSBC's cryptocurrency payment limits. I think it could be argued that HSBC should have intervened with a written warning tailored to the payment type Mr C was attempting.

But I don't think this would have made a difference. I say this because Mr C attempted the same value payment from a new account he had opened with a new provider as part of the scam.

The provider of the other account intervened, and two telephone conversations took place between Mr C and the provider of the other account. I have listened to recordings of these calls, and Mr C was not honest when he was questioned about the payments.

Mr C confirmed no one had asked him to open the account with the other provider, that he was making the payments of his own accord, and he was not speaking to anyone about investing.

I think it's clear that Mr C was being guided on how to answer questions if the bank was to intervene. Mr C has previously told us he was groomed by X and in a message exchange with X, X told Mr C:

"I told you exactly what to say to avoid this, so tell me what happened because if you chose to believe something that is clearly wrong, that's just sad honestly".

Mr C then voiced his concerns to X and that the other provider had worried him. Yet Mr C continued to make further payments having been guided by X. I think it's very unlikely that had HSBC intervened when Mr C made the payments from his HSBC account, that he would have been any more honest with the answers he would have given, making it extremely difficult for HSBC to uncover the scam that was taking place.

With the above in mind, I don't think HSBC missed an opportunity to uncover the scam and it is therefore not responsible for Mr C's loss.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 28 February 2025.

Terry Woodham
Ombudsman