

## The complaint

Mr B complains that HSBC UK Bank Plc (HSBC) has declined to refund payments he made as part of a scam.

## What happened

The background to this complaint is well known to both parties, so I won't repeat it in detail here. But in summary, I understand it to be as follows.

Mr B came across an advert on social media for an investment company, further referred to as Company A, in mid-October 2023.

Having left his contact information with Company A, Mr B was contacted individually via a messaging app, as well as being added to a group chat within the messaging app. Mr B reviewed the group chat for a couple of weeks, gaining an understanding of how the company ran and the investments worked, as well as gauging the profits investors were making.

Mr B was messaged individually by the group manager who asked about his interest in investing with the company. They also made Mr B aware they'd be able to assist him in setting up various accounts.

It was explained to Mr B that the company was running a three-month free trial for their services. After this time, if Mr B wished to continue with them, Company A would draw up a contract and take a share of the profits made on Mr B's account.

Mr B was directed to open an account with a trading platform, further referred to as Company B. Mr B researched the platform independently and was satisfied it was genuine. Mr B opened an account with Company B and was given a demonstration as to how the platform worked by Company A.

Mr B began to make payments from his HSBC account on 31 October 2023. Below is a list of the relevant payments:

Date	Activity	Amount
31/10/2023	Outbound payment to Company B	£10
01/11/2023	Outbound payment to Company B	£990
02/11/2023	Outbound payment to Company B	£50
08/11/2023	<i>Incoming payment from Company B</i>	£9
09/11/2023	Outbound payment to Company B	£11,000
15/11/2023	Outbound payment to Company B	£8,000
22/12/2023	Outbound payment to Company B	£5,000
08/01/2023	<i>Incoming payment from Company B</i>	£1,420.70
		Total loss £23,620.30

During this period, Mr B continued to receive advice from Company A regarding how to invest his funds and saw his profits increase to around 10% of his total investment.

On 27 December 2023, Mr B logged into his account with Company B and saw that his profits had decreased from 27,500 dollars to 1,000 dollars. Mr B got in touch with Company A who advised him there'd been an issue and to await further updates. When Company A failed to respond to Mr B's messages, he feared that he'd fallen victim to a scam. Mr B contacted HSBC to raise the issue with them.

HSBC investigated Mr B's complaint and determined that his complaint was a civil dispute and not as the result of a scam. Unhappy with this response, Mr B referred his complaint to our service.

Our investigator looked into the matter but didn't uphold the complaint as they felt Mr B hadn't sufficiently demonstrated that this was a scam and not a civil dispute. The investigator also felt that appropriate intervention from HSBC at the time of the payments wouldn't have prevented the payments from taking place.

Mr B disagreed with the investigator and raised numerous points in response to their assessment.

In summary, Mr B felt that he'd been the victim of an authorised push payment (APP) scam as defined by the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. But, even if the payments don't meet the Code's definition of an APP scam, Mr B believes HSBC failed to intervene appropriately at the time of the payments, which he feels would've prevented his loss.

Mr B also felt that he was vulnerable to APP scams at the time of the payments. As the case couldn't be resolved it was passed to me to review. Please note that the payment of £50 on 8 November 2023 hadn't previously been included as part of our investigation, but it has been considered as part of my decision.

Having reviewed the case, I reached the same overall answer as the investigator, but for different reasoning. So, I issued a provisional decision and gave both parties the chance to provide any further evidence they wanted considered before I issued a final decision.

### **My provisional decision**

In my provisional decision I said:

I'd like to assure both parties that I've considered all the available evidence and arguments put forward in order to decide what's fair and reasonable in the circumstances of this complaint.

HSBC are a signatory of the Lending Standards Board's CRM Code which requires firms to reimburse customers who have been the victims of APP scams. So, in order for the CRM Code to apply, I first need to be satisfied that Mr B's payments meet the Code's definition of an APP scam.

The relevant part of the CRM Code definition of an APP scam requires that the payment was made to: *"another person for what they believed were legitimate purposes but which were in fact fraudulent."*

In this case, Mr B made payments to a genuine account held in his name with Company B, where the funds were then used to purchase stocks in various companies.

While I accept Mr B has suffered a financial loss, and the actions of Company A appear to have caused this, the payments from his HSBC account were made to an account in his own account with a legitimate platform. As they weren't made to '*another person*' at the point they left Mr B's HSBC account, I don't consider the payments meet the CRM Code's definition of an APP scam.

That said, I've still considered whether HSBC could've, and should've, prevented Mr B's loss at the point the payments were made, bearing in mind relevant rules and regulations as well as good industry practice.

Mr B says that HSBC didn't intervene at any point while he was making the payments in dispute – and HSBC haven't demonstrated they intervened at any point either.

Considering the payments and their individual characteristics, I don't think HSBC ought to have intervened for the payments between the 31 October and 02 November 2023 as they aren't suspicious or unusual enough in comparison to Mr B's genuine account usage to have caused concern to HSBC. But, I'm satisfied the payment of £11,000 on 09 November 2023 was unusual enough to have alerted HSBC to the potential that Mr B was at risk of financial harm.

Even though HSBC didn't intervene at this stage, this doesn't mean that they are automatically liable for Mr B's loss. In order for me to find HSBC liable, at least in part, for Mr B's loss, I need to be persuaded that HSBC intervention would have prevented Mr B's financial loss.

Mr B says he had carried out extensive research into the companies and had taken steps to satisfy himself that Company A and Company B were genuine. Further to this, I don't think the information he'd likely have presented to HSBC at the point of intervention would've led them to uncover the potential financial harm that he was facing. Unfortunately, it seems as though Mr B has fallen victim to a very sophisticated scam and I don't think HSBC could've prevented it from taking place based on the information that was available at the time.

I accept that HSBC identified Mr B had been the victim of a 'pump and dump' scam when he called to log his scam claim. But, the key piece of information preventing HSBC from identifying this at the time of the payments was the price of the shares Mr B was purchasing. The share price had plummeted by the time Mr B raised the issue with HSBC, meaning it was more straightforward for them to identify the type of scam he'd fallen victim to.

Importantly in this case, the share prices hadn't dropped significantly at the time the payments were made. In fact, had HSBC asked about the share prices at the time of the payments, Mr B would've confirmed that he had made previous payments based on advice from Company A and those shares had increased in line with the estimates given.

I'm sorry that Mr B has lost a large amount of money. But, for the reasons stated above, I don't believe that these payments are covered under the CRM Code nor am I satisfied that HSBC ought to have prevented the scam.

Lastly, as I'm not satisfied that Mr B payments are covered by the CRM Code, I can't consider or apply vulnerability as set out under the Code. Further to this, as I can't see that HSBC were aware of any potential vulnerability at the time of the payments, I can't say that they failed in their duty of care to Mr B with regards to his potential vulnerabilities.

Overall, whilst it's clear that Mr B has suffered a significant financial loss, I'm not persuaded that this could've been prevented by HSBC, based on the evidence available.

## **My provisional decision**

My provisional decision was that I didn't intend to uphold this complaint HSBC UK Bank Plc.

## **Responses to my provisional decision**

Mr B's representatives responded to say they didn't accept my provisional decision. They believed that a conversation between Mr B and HSBC would've led to the scam being uncovered and gave further detail as to how they believe the conversation would've proceeded. They also believe that information available on the internet at the time of the transactions, which HSBC could've found had they intervened appropriately, would've led to HSBC preventing the payments from being released.

HSBC responded to say they had nothing further to add following my provisional decision.

As responses have been received by both parties, I've proceeded with issuing a final decision.

## **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 considered the additional testimony provided by Mr B's representatives, I see no reason to reach a different answer than I did in my provisional decision.

Mr B's representatives have given a list of questions they believe HSBC could've asked at the time of the payments which would've uncovered the potential scam Mr B was falling victim to. Though I will not be commenting on each of the questions posed by Mr B's representatives, I'd like to assure them that I have taken them all into consideration.

I agree that HSBC could've asked Mr B about the proposed returns given by Company A. From reading the messages between Mr B and the alleged scammers, the profits varied for different investments. That said, the messages shared with our service don't include specific information relating to the proposed profits Mr B would receive by purchasing the shares directed to by Company A.

Further to this, Mr B's representatives state, in their submission dated 24 April 2024, that Mr B had reviewed the chat thread between supposed investors and *'the shares rose by their predicted amount, usually around 10% in a week or so.'*

Given the variety in the proposed returns, as well as lack of information relating to the returns Mr B would receive for the shares he was purchasing, I don't agree that HSBC could've, or should've, uncovered that the profits proposed by Company A were unrealistic and likely pointed to the company being fraudulent.

I agree that HSBC could've asked for information about how Mr B discovered the investment opportunity. But, as stated in my provisional decision, Mr B says he had carried out extensive research into the companies and had taken steps to satisfy himself that Company A and Company B were genuine. Given the information available at the time, I don't think this would've given HSBC cause for concern that Mr B was potentially at risk of financial harm. I, therefore, don't agree that this should've resulted in HSBC carrying out independent research online into the legitimacy of Company A.

Overall, the complaint points put forward by Mr B's representatives don't persuade me to reason a different answer. I don't think that the information HSBC could've obtained during any intervention would've prevented Mr B from proceeding with the payments. Further to this, I don't believe that the information Mr B would've provided HSBC meant they could've fairly refused to release the payments.

### **My final decision**

My final decision is that I do not uphold this complaint against HSBC Bank UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 17 April 2025.

Billy Wyatt  
**Ombudsman**