

## **The complaint**

Ms S, via a representative, complains that HSBC UK Bank Plc (“HSBC”) have failed to refund the money she lost as part of a scam.

## **What happened**

The details of this complaint are well known to both parties, so I will not repeat everything again here and I will focus on giving the reasons for my decision.

In summary though, Ms S saw an advert on a social media site by a company that I will call B. B said that it was an investment firm.

B then persuaded Ms S to send funds to a crypto exchange via transfer. These funds were then used to purchase crypto currencies which were then sent on to B.

Ms S sent over £300,000 to B between 8 September 2022 and 15 June 2023 from her HSBC account via transfer.

B’s website disappeared from the internet and it was at this point Ms S realised that she had been scammed.

Ms S asked HSBC to refund these payments, as she believes HSBC should have done more to prevent her from being scammed. HSBC did not agree with this.

One of our investigators looked into this matter and she thought that HSBC should have intervened earlier than it did. But the investigator concluded that, given Ms S’s interactions with HSBC later on in the scam, she did not think that the scam would have been uncovered or prevented even if HSBC had intervened earlier than it did.

Ms S did not agree with this and therefore her complaint has been passed to me to issue a 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 done so, I agree with the conclusions reached by the investigator for the following reasons.

It isn’t in dispute that Ms S authorised the disputed payments she made from her HSBC account. The payments were requested by her using her legitimate security credentials provided by HSBC. And the starting position is that HSBC ought to follow the instructions given by its customers, in order for legitimate payments to be made as instructed.

However, I've considered whether HSBC should have done more to prevent Ms S from falling victim to the scam, as there are some situations in which it should reasonably have had a closer look at the circumstances surrounding a particular transaction. For example, if it was particularly out of character.

In this case, I agree with the investigator that HSBC should really have intervened earlier than it did. So I need to consider if the scam would have been stopped had that been the case. Having considered everything I don't think that it would have. Let me explain why.

Ms S's payments were stopped by HSBC on a number of occasions and there were calls between her and HSBC. In these calls Ms S repeatedly states the same thing that she is purchasing crypto for herself and she has not received any advice from a third party and had done her own research, which is not correct. It is clear from the chats between Ms S and the scammer that she is being actively coached not just with the interactions with HSBC but with the crypto exchanges as well.

I think that HSBC could have asked further questions about the payments when it did intervene, especially when Ms S mentioned a trading account. But given her answers to the rest of the questions asked, I think that Ms S would not have been forthcoming with what she was doing, even if HSBC had asked such probing questions earlier on in the scam. It is clear that Ms S was completely under the spell of the scammer, and that their relationship had developed to such an extent that she was willing to do whatever was needed to send the payments to B, including giving answers she knew were incorrect when HSBC asked about the payments.

This is further illustrated that whenever a particular crypto exchange started blocking her account, she moved on to a new exchange. This suggests that even if HSBC had stopped Ms S from making payments completely, it is likely that she would have found a different way of sending the payments. This is supported by Ms S telling HSBC in a call that she would change provider if her payments kept getting held up.

So overall, I think that HSBC did not intervene appropriately, and that some of the earlier payments were such that it should've aroused suspicion with HSBC about whether Ms S was being scammed. But even if it had intervened sooner than it had done, I don't think the scam would have been stopped.

I've also thought about whether HSBC could have done more to recover the funds after Ms S reported the fraud.

HSBC are under no obligation to refund the money to Ms S under the Contingent Reimbursement Model (CRM) Code, as the Code does not apply to transfers which the payer has effectively made to themselves. I don't think HSBC needed to do anything more given the circumstances of this complaint. So I don't think that HSBC could have recovered the funds.

I note Ms S's representative has explained that Ms S was vulnerable at the time. I'm sorry to hear about this and I can see that Ms S was already experiencing an extremely distressing situation before and during the time of the scam. But, whilst I'm really sorry to hear about Ms S's circumstances, I can't see that HSBC was made aware of this at the time. So I can't reasonably say that it owed an additional duty of care towards Ms S at the time, if it wasn't aware of her circumstances.

I should say that I have a great deal of sympathy with Ms S for being the victim of a cruel a persuasive scammer, at what must have been and continues to be an unimaginably difficult time. But I can only ask HSBC to make a refund if it did something wrong and this error caused Ms S's loss. But in this instance, I can't say that it did for the reasons set out above.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 29 November 2024.

Charlie Newton  
**Ombudsman**