

The complaint

Mr and Mrs S complain that HSBC UK Bank Plc ('HSBC') won't refund the money they lost as the result of a scam.

What happened

In 2023, Mr S found an investment online for a company I'll refer to as B. Mr S says he saw positive reviews about B, that B's website looked professional and showed real time returns and market movements.

As part of the scam, Mr S downloaded screen sharing software, and says the scammer opened a cryptocurrency wallet for him with a cryptocurrency exchange and a platform account with B. Mr S says he wasn't promised a set return.

Mr S transferred £10,000 from his joint HSBC account in August 2023. The funds were transferred to an account that Mr S held with an EMI – who I'll refer to as P. Mr S says the scammer then transferred the money out of his account with P.

Mr S says he was told he needed to transfer the £10,000 in order to upgrade his account to allow the withdrawal of his investment from B, but the funds would be returned within 15 minutes. A day later Mr S was told the scammers had tried to return the money to him, but it had failed. When he was asked to send a further £20,000, Mr S realised he'd been the victim of a scam.

Mr and Mrs S raised a scam claim with HSBC, asking that they refund them. HSBC said Mr and Mrs S' payment isn't covered by the Contingent Reimbursement Model Code (CRM Code) as the funds were transferred to an account in Mr S' own name with P. HSBC said the payment wasn't flagged as suspicious and they're not liable for Mr and Mrs S' loss.

Mr and Mrs S weren't happy with HSBC's response, so they brought a complaint to our service.

An investigator looked into their complaint but didn't uphold it. The investigator didn't think HSBC should've intervened when Mr and Mrs S made the payment, as it was paid to an account in Mr S' name using an existing payee. The investigator felt that even if HSBC had intervened, the scam wouldn't have been uncovered as Mr S was given a cover story by the scammer.

Mr and Mrs S disagreed with the investigator's opinion and raised the following points:

- The investigator said that they were given a cover story which isn't true. This was based on a call that Mr S had with HSBC months prior to the scam, and the explanation he gave HSBC about the purpose of that payment was true.
- The £10,000 payment was unusual and out of character compared to Mr and Mrs S' previous account activity, so HSBC should've intervened. Especially as the payment was going to a new EMI like P.

Mr and Mrs S asked for an ombudsman to review the case.

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.

HSBC are a signatory to the CRM Code, which requires firms to reimburse customers who have been the victims of APP scams like this, in all but a limited number of circumstances. But the CRM Code only covers payments where Mr and Mrs S have transferred the funds to another party. It doesn't cover payments made between Mr and Mrs S' own accounts. So, I'm not satisfied that their payment is covered by the CRM Code.

In broad terms, the starting position in law is that HSBC are expected to process payments that a customer authorises it to make, in accordance with the terms and conditions of the customer's account and the Payment Services Regulations 2017 (PSR's).

But, taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider HSBC should fairly and reasonably have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams.

Also, I'd expect HSBC to have systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). And where a potential risk of financial harm is identified, to have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment.

I'm not satisfied that HSBC should've intervened when Mr and Mrs S made their payment of £10,000. I say this as while it was for a higher value than the usual activity on Mr and Mrs S' account, it was going to an existing payee and was going to an account owned by Mr S. So, based on the information available to HSBC, I'm not satisfied that they should've been concerned that Mr and Mrs S were at risk of financial harm, or have intervened before processing the payment.

HSBC weren't aware that the funds ultimate destination was related to cryptocurrency or to an account that might not be in Mr S' control. The information they had was that Mr and Mrs S were transferring funds to Mr S' account which he'd transferred money to before. So, I'm not satisfied that I can fairly ask HSBC to refund Mr and Mrs S.

As the funds were transferred to an account in Mr S' name, HSBC weren't able to recover them. Any funds that were left in Mr S' account with P, could've been recovered by Mr S. HSBC aren't able to recover funds from the end destination, only the account Mr and Mrs S initially transferred their funds to.

I'm really sorry to disappoint Mr and Mrs S, but having carefully considered all of the evidence, I'm not satisfied that I can fairly hold HSBC liable for their loss.

My final decision

My final decision is that I don't uphold this complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 22 April 2025.

Lisa Lowe
Ombudsman