

The complaint

B complains about the actions of HSBC UK Bank Plc when it lost money to a scam.

B is being represented by a claims management company but for ease of reading I'll only refer to B.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In early 2022 B received a letter in the post from a merchant regarding a potential investment opportunity. They watched a video which provided details on the merchant and how the investment would work. B was impressed with the professional looking website, so they decided to proceed with the investment.

B was instructed to make four payments to the merchant. In total it sent £100,000 between September 2022 and March 2023. After losing contact with the merchant, B realised they had been scammed. So, they contacted HSBC to see if they could make a claim for the money to be returned. HSBC considered the claim but said it wasn't going to make a refund as it hadn't done anything wrong here. Unhappy with that response, B brought the complaint to this service.

Our investigator didn't think the complaint should be upheld. She said that HSBC stopped the first payment (£25,000) and asked B to travel to a local branch. She was satisfied that it was more likely that because B was persuaded by its own research and the persuasiveness of the documentation, HSBC were satisfied this wasn't likely a scam. So, it provided a warning about authorised push payment (APP) scams in branch and B was allowed to make the payment and the following three payments. Overall, she didn't think that HSBC had acted unreasonably here.

B disagreed and has asked for an Ombudsman's review. In summary it said that if there had been a senior branch manager advising it on scams and investment opportunities it definitely would've listened, and the scam would've been discovered with no losses. As a result, B says that HSBC failed to provide an appropriate intervention in the branch and stop it from falling from this scam.

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've reached the same conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that B has been the victim of a cruel scam. I know it feels strongly about this complaint, and this will come as a disappointment to him, so I'll explain why.

I've read and considered the whole file. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

Where the evidence is incomplete, inconclusive, or contradictory (as it is here), I have to make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

It is common ground that B authorised the scam payments of around £100,000. I accept that these were authorised payments even though B was the victim of a scam. So, although it wasn't its intention to pay money to the scammers, under the Payment Services Regulations 2017 (PSRs) and the terms of her account, B is presumed liable for the loss in the first instance.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for HSBC to take additional steps or make additional checks before processing a payment in order to help protect customers from the possibility of financial harm from fraud.

Here, HSBC thought that the first payment B made was unusual. So, it asked it to visit a local branch to discuss the payment further. B says HSBC failed to provide an adequate intervention in the branch that it would've listened to. HSBC says that it asked some questions about why B was making the payment and was happy with the answers that it received. It said it provided warnings about scams to B at the time. So, I need to decide whether HSBC's intervention in branch was sufficient.

I've considered all the evidence available to me carefully. Although I can't be certain what was discussed, I need to make a finding on what's most likely to have happened on a balance of probabilities. The note of the discussion by HSBC says that when it questioned B it was told that B was making an investment, that they knew the merchant involved and that they had done investments in the past. So, a warning about investments was provided. B has admitted that this was a very well documented and persuasive scam. This convinced it that this was a genuine investment opportunity.

As a result of the answers B provided in branch and has provided to this service, I'm persuaded that HSBC was satisfied that B had completed its own research, was familiar with the merchant involved and had invested before. As a result, I don't think I can reasonably conclude that HSBC failed to provide an adequate intervention. I've taken B's points about the time it spent in the branch waiting to be seen that day, but I don't think that was likely a deciding factor in the payment being sent. Ultimately, I'm more persuaded that B's understandable confidence in the scam was why the payment was sent. To be clear, I'm not blaming B here, I'm just stating that the complexity of the scam is ultimately to blame.

HSBC didn't stop any of the remaining three payments B made here. In all the circumstances and based upon my findings on the initial branch intervention, I don't think it was unreasonable of HSBC to not stop any further payments. I've seen that B had made larger payments in the past ranging from £22,500 in January 2022 and £52,500 in July 2022. So, it wasn't uncommon for this account to send larger payments from time to time. I note that the scam payments were international payments but that's why B was asked to go into branch when the first payment was made. After that first visit, and HSBC being satisfied with B's answers as to why the payment was being made, I don't think it was unreasonable for the later payments to be allowed to be sent without any further intervention here.

I've noted that when HSBC was made aware of the scam it attempted to recover the money from the beneficiary bank. But the request was refused stating the payments had been made for trading purposes. As a result, HSBC couldn't retrieve the money on B's behalf.

I've seen that the investigator didn't make any award to B on the trouble and upset it says HSBC caused after reporting this scam. To be clear I agree with the investigator's reasoning here. And I won't be making any further award to B.

In these circumstances I can't conclude the outstanding loss is the fault of HSBC. To be clear, I'm not blaming B for the loss – it's ultimately the scammer who is to blame. But for the reasons I've explained above, I don't think it's been treated unfairly by HSBC.

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 B to accept or reject my decision before 10 March 2025.

Mark Dobson
Ombudsman