

The complaint

Mr H complains that HSBC UK Bank Plc (trading as first direct) won't refund the money he lost after falling victim to a scam.

Mr H is represented in this complaint by a solicitor, but for simplicity I will refer to Mr H throughout this decision, even when referencing what his representatives have said on his behalf.

What happened

In July 2023, Mr H was contacted by someone who said they worked for a recruitment agency and could offer him a job opportunity. Mr H had been looking for work and so was not surprised by this contact. He was told the job involved him completing tasks to promote online items. I'll refer to the company Mr H believed he was working for as N. Mr H was told he could earn more if he deposited his own funds (in cryptocurrency) to unlock additional tasks. Mr H agreed to take on the role, and initially was completing tasks funded by N. But then agreed to make payments into the scheme so he could earn more. Unfortunately, and unknown to Mr H, this was not a legitimate job opportunity, he was the victim of a scam.

Over the course of around a week Mr H made 14 payments from his HSBC account to buy cryptocurrency from various cryptocurrency exchanges, the cryptocurrency was then passed on to the scammers. Mr H does appear to have received some returns, but says he realised that the job was a scam when he was told he'd have to pay fees to withdraw his profits, and when N then stopped responding to his attempts at contact.

Mr H contacted HSBC about the scam payments, and it looked into what had happened. But HSBC did not consider that it was responsible for refunding any of Mr H's loss, it said it had intervened appropriately in the payments Mr H made.

Mr H wasn't happy with HSBC's response, so he brought a complaint to our service. An investigator looked into Mr H's complaint but didn't uphold it. The investigator did not consider that HSBC should be held liable for Mr H's loss.

Mr H disagreed with the investigator's opinion, so as no agreement could be reached this case has now been passed to me for 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've reached the same overall outcome as the investigator, I'll explain why.

It's not disputed that Mr H authorised the payments that are the subject of this complaint. So as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Mr H is responsible for them. That remains the case even though Mr H was the unfortunate victim of a scam. And, as these payments were made to cryptocurrency

accounts in Mr H's name, the Contingent Reimbursement Model Code also does not apply here.

Because of this, Mr H is not automatically entitled to a refund. But the regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams.

Taking the above into consideration, I need to decide whether HSBC acted fairly and reasonably in its dealings with Mr H, or whether it should have done more than it did.

In this case, I consider that, by the time of the third payment to the scam, which was for £2,200 on 11 August 2023, HSBC should have taken steps to ensure that Mr H was not at risk of financial harm. I say this because this was the third payment to a new payee associated with cryptocurrency in a relatively short period of time.

However, I note that HSBC evidently did have concerns about this payment, and about other payments Mr H made relating to the scam. It spoke to Mr H several times during the course of the scam. During those calls Mr H said he was investing in cryptocurrency, that he had been told about the investment by friends and family, and that only he had control of the funds he was investing. He was asked open questions about why he was making payments but at no stage did he suggest that he was making them as part of a job or any kind of employment. So, it appears that, despite repeated questioning Mr H was not open and honest with HSBC about what the payments were for. When customers are not honest with banks it makes it very difficult for that bank to provide an appropriate and relevant warning that could stop a scam.

Mr H's representatives have said that the prevalence of job scams means that HSBC should have specifically asked Mr H if he had been asked to make payments as part of a job, but given that Mr H had said he was investing, I can't see that there was any red flag that would have led HSBC to think that a job scam might be the scam Mr H was at risk of. And there's no clear explanation here about why Mr H was not honest about what he was doing, so one can only conclude that either he was being instructed to be dishonest by the scammers (something that the written warnings from HSBC told him to be on the lookout for) or he chose to conceal his real reason for the payments himself.

And in both cases the fact remains that what HSBC was told about the payments Mr H was making means that it would have been very difficult for HSBC to uncover the scam here. I think it is also worth noting that when HSBC began to apply too much friction to Mr H's payments, he chose to make payments from a different bank instead, so that he could continue to fund the scheme. All of this suggests to me that Mr H was set on making these payments and that, while I'm satisfied that HSBC did intervene appropriately, further intervention would have been unlikely to stop him making payments to the scam.

With this in mind, I don't consider that HSBC missed an opportunity to protect Mr H from this scam or to prevent his loss.

I've also thought about whether HSBC did all it could to try to recover Mr H's funds when he told it of the scam. But given that the payments Mr H made were to purchase cryptocurrency directly, I don't consider there is anything HSBC could have done to recover those funds.

I'm sorry to disappoint Mr H as I know that he has lost a significant amount of money. But, overall, I'm satisfied that any reasonable, proportionate intervention from HSBC would not

have prevented Mr H from making further payments to the scam. It follows that I don't think HSBC is liable for his loss and won't be asking it to refund any of his losses to him.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 9 January 2025.

Sophie Mitchell
Ombudsman