

## **The complaint**

Miss T has complained that HSBC UK Bank Plc (“HSBC”) didn’t protect her from falling victim to a scam and hasn’t refunded the money she lost.

## **What happened**

The background of this complaint is already known to both parties, so I won’t repeat all of it here. But I’ll summarise the key points and then focus on explaining the reason for my decision.

Miss T explains that she was contacted by an individual (“the scammer”) who convinced her to participate in an alleged investment, which resulted in her losing £1,100. The scam involved Miss T using her HSBC debit card to purchase gift cards which she sent to the scammer, instead of funding the investment in the way she thought she was. Miss T says at the outset she was purchasing gift cards using an account held with a different bank, but when that account was blocked, she started using her HSBC account.

The transactions Miss T made were for £400 and £500 on 7 February 2024, and £200 on 8 February 2024.

Miss T says that when she became aware that she’d fallen victim to the scam she contacted HSBC to make it aware, and in an attempt to stop the final payment of £200 being processed. This was unfortunately unsuccessful, and Miss T says HSBC has refused to take any further responsibility for the scam.

Miss T made a complaint about this to HSBC. As part of her complaint she also complained that HSBC had acted in a discriminatory way as she’s a single mother, and she complained that she’d had to chase HSBC for its answer several times. HSBC didn’t uphold the complaint about the scam, nor did it agree it has discriminated against Miss T, but it paid her £100 for the poor service it had offered throughout the process.

Miss T remained unhappy so she referred the complaint to this service.

Our investigator considered everything and didn’t think the complaint should be upheld. She explained that she didn’t think the payments Miss T made were sufficiently out of character in comparison with Miss T’s general account activity that HSBC ought to have been aware that Miss T was being scammed. So she didn’t think HSBC was responsible for what Miss T had lost.

As Miss T didn’t accept the investigator’s opinion, the case has been passed to me to make 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.

I'm sorry to disappoint Miss T but having considered everything I'm afraid I'm not upholding her complaint, broadly for the same reasons as our investigator, which I've set out below.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And in this case it's not in question whether Miss T authorised these payments from leaving her account. It's accepted by all parties that Miss T gave the instructions to HSBC and HSBC made the payments in line with those instructions, and in line with the terms and conditions of Miss T's account.

But that doesn't always mean that the business should follow every instruction without asking further questions or intervening to ensure requests coming from their customers are firstly genuine, and secondly won't result in harm.

I've firstly considered whether HSBC should've identified that the payments Miss T made were part of a scam. And if it should have, I'll consider whether or not it took any action, and how that affected the overall outcome for Miss T.

Having considered everything, I'm satisfied that it was fair for HSBC to process the payments Miss T made using her debit card without any intervention. So although I know Miss T is clearly the victim in this situation, it doesn't automatically follow that HSBC has to take responsibility for her loss.

I say this because although I understand the cumulative value of the payments Miss T made was a significant amount to her, the individual transaction values weren't so large that they stood out or should've caused HSBC to be aware that something unusual was happening. I can see that Miss T had made other transactions using her debit card of similar values in the months preceding those related with the scam, and it wouldn't be practical to expect HSBC to intervene before all large payments are made, especially when it doesn't have sufficient basis for doing so. As an example, Miss T made a payment for £290 in January 2024 and one for £450 in February 2024, as well as a debit card payment for £251.50 the day before the first scam purchase was made. Based on this pattern of activity I don't think it's wrong that the scam transactions didn't appear suspicious to HSBC.

I'm also mindful that although the gift cards were purchased as part of a scam, there's nothing to suggest that HSBC should've known about that. The transactions were made to a legitimate retailer and authorised by Miss T. HSBC is required to have systems in place to identify unusual transactions or potential fraud, but it has to balance this with its responsibility to make payments in line with its customers' instructions. In Miss T's circumstances, I'm afraid I'm not persuaded that HSBC should've either delayed or stopped these transactions from being made.

I'm grateful that Miss T has shared a lot of personal information to help me understand the difficulties she's facing in her personal life, and I'm sorry this scam has exacerbated that. But in fairness to all parties I've also considered whether any responsibility for the loss lies with Miss T.

From everything I've seen and been told it appears Miss T was contacted through social media and presented with the investment opportunity, in which it appears she was told that the scammer could turn £100 into £7,800. I know Miss T says the scammer had thousands of social media followers, but it's clear from the messages between them that Miss T had some concerns about the payments the scammer was asking her to make. She questioned this with the scammer but I'm not aware of any checks she did to verify the investment, nor that she received any paperwork or documentation in relation to it. So as this was an

unusual and somewhat suspicious way to be introduced to, and to fund an investment, and as the opportunity sounds too good to be true, I think Miss T could've prevented the financial harm she's experienced by looking into things more closely before making the purchases that resulted in her loss.

Finally, I've considered HSBC's payment of £100 for the poor service. It's evident there was clearly some frustration for Miss T by having to chase HSBC for answers on her scam report and her complaint. But I haven't seen anything to support the allegation that Miss T's domestic situation influenced HSBC's decision-making process about the scam itself. So I'm satisfied that the £100 HSBC paid Miss T for the poor service adequately compensates her for the trouble and upset this caused.

### Recovery of the funds

In this case the payments were made using Miss T's debit card. So the chargeback process is also relevant here. In simple terms a chargeback is a mechanism for a consumer, via their card provider, to reclaim money from a retailer's bank when something has gone wrong, provided the transaction meets the eligibility criteria. It's for the card provider to decide whether to raise a chargeback, and it only needs to do so if it has a reasonable prospect of success.

It's also relevant to note that raising a chargeback isn't a legal right, and it's for the debit or credit card provider to decide whether to make a chargeback request to the retailer's bank. The process for managing these claims is determined by a set of rules by the card payment networks (Visa in this case) and there are no guarantees the card provider will be able to recover the money through the chargeback process.

But as the gift cards Miss T purchased were provided by the merchant, although I understand they were unfortunately sent on to the scammer, the merchant fulfilled its obligation to provide the goods Miss T paid for. So there wasn't a reasonable prospect of a chargeback claim being successful, so I don't think that was a route that HSBC ought to have pursued.

I'm very sorry that Miss T has fallen victim to this scam and I know she's asked me to consider her personal and financial situation before making my decision.

Whilst I fully appreciate how difficult this has been for her, I can't hold HSBC responsible for something that it's not at fault for, just because of Miss T's financial situation. I do understand that my decision will be disappointing. But for the reasons I've set out above, I don't hold HSBC responsible for Miss T's losses.

### **My final decision**

I don't uphold Miss T's complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 18 November 2024.

Sam Wade

**Ombudsman**