

The complaint

Mr S has complained that HSBC UK Bank Plc (“HSBC”) failed to protect him from falling victim to cryptocurrency-related investment scam, and hasn’t refunded what he 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.

Mr S has used a professional representative to refer his complaint to this service. For the purposes of my decision, I’ll refer directly to Mr S, but I’d like to reassure Mr S and his representative that I’ve considered everything both parties have said.

Mr S has explained that around October 2023 he saw an advert on social media for the opportunity to take part in an investment opportunity. He’s explained that the advert used a fraudulent celebrity endorsement to make it appear legitimate, but part-way through the scam it was added to the Financial Conduct Authority’s scam warning list.

Mr S says that before deciding to invest he searched online, as well as a well-known review site, to understand more about the company he was considering investing in. He didn’t find anything that concerned him, and he’s also explained the company itself had a professional-looking website which added to the illusion that it was legitimate. He was also in contact with an individual (“the scammer”) claiming to be an investment broker, who guided him using a messaging app on how to complete the alleged investments.

In order to fund the alleged investment Mr S firstly made payments from his HSBC account to another account in his own name, held with a different bank, which he says was opened for him as part of the scam. He then sent the funds to his wallet at a cryptocurrency platform and transferred the cryptocurrency he purchased to wallets directed by the scammer.

The payments relevant to this complaint are as follows:

	Date	Amount
1	20/10/2023	£1,000
2	27/10/2023	£10,000
3	17/11/2023	£8,000
	Total	£19,000

Mr S says he realised he’d been scammed when he was unable to withdraw from his investment account.

Mr S has complained that HSBC failed to ask probing questions about the payments – especially for the one for £10,000. He says that if it had done so, it would’ve uncovered many features that are common to investment scams, such as the fact that Mr S was introduced to it through social media, and that the advert included a [fraudulent] celebrity endorsement. He also says that if HSBC had asked further questions it would’ve realised the

payments were ultimately being sent on to a third party via a cryptocurrency exchange, which is a tactic that has been warned about by Action Fraud since 2018.

Mr S made a complaint to HSBC. HSBC didn't uphold the complaint and in its response it said that the loss occurred when the payments were sent on to the fraudster from Mr S's account held with the other bank, and not when he made the payments from his HSBC account to that account. It also said the Contingent Reimbursement Model ("CRM") Code didn't apply to any of the payments as they were made to an account in Mr S's own name, under his control, which is excluded from the cover of the Code.

Mr S remained unhappy so he referred the complaint to this service.

Our investigator considered everything and didn't think the complaint should be upheld. He explained that he didn't think the payments were sufficiently out-of-character that HSBC ought to have regarded them as suspicious, and intervened before they were sent.

As Mr S didn't accept the investigator's opinion, the case has been passed to me to make a decision.

I've noted Mr S has also made a complaint about the receiving bank. In this decision I'll only be considering the complaint against HSBC; we'll write to Mr S separately about the other complaint.

I should also note that there are two additional payments made from Mr S's HSBC account around the same time, that haven't been raised as part of this complaint. Those payments appear to relate to a different scam, and as such, I haven't included them as part of my consideration of this complaint.

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 Mr S but having considered everything I'm afraid I'm not upholding his complaint, although my reasons are slightly different. I'll explain why.

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 Mr S authorised these payments from leaving his account. It's accepted by all parties that Mr S gave the instructions to HSBC and HSBC made the payments in line with those instructions, and in line with the terms and conditions of Mr S'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 carefully reviewed the transactions on Mr S's account in the six months prior to the scam to understand his typical spending patterns.

The first payment of £1,000 was higher than Mr S's usual day-to-day transactions during the period. But HSBC needs to balance protecting its customers from financial harm with ensuring their payments are not unduly delayed or disrupted. HSBC has explained that before processing the payment, it asked Mr S about its purpose, and he said he was transferring funds to another account in his own name. HSBC also displayed an on-screen

warning relevant to this transaction, which it has provided as evidence. The warning included prompts such as: "Is this a new account?" and "Did someone else open it for you?" and further cautioned, "If you're making an investment or buying cryptocurrency, you've chosen the wrong payment reason. Go back and choose the right one. If you have any doubts, stop the payment."

Mr S was then presented with the options to "Continue" or "Stop the payment." He chose to continue, and the payment was processed. Considering this, I find that HSBC's warning was proportionate to the level of risk presented by this transaction.

Turning to the second payment of £10,000, I'm persuaded that this was sufficiently out of character to warrant suspicion that Mr S might've been at risk of financial harm. With this in mind HSBC ought to have intervened before processing the payment, to better understand its purpose and the surrounding circumstances, with a view to providing a tailored warning relevant to the payment's intended use. But as I'm not aware of any such intervention by HSBC, the starting position is that HSBC is responsible for Mr S's losses from this payment onwards.

That said, I must also consider whether HSBC's failure to intervene would've altered the outcome for Mr S. And after careful thought I'm not persuaded that it would have. Even if HSBC had questioned Mr S further, I haven't concluded that he would have acted differently, meaning any additional warning would likely have been ineffective.

From the outset, Mr S was aware that he was making payments to fund an investment. He explained that he was drawn to the opportunity via a social media advert, which he believed was endorsed by a celebrity. He also researched the investment online across multiple sources. This demonstrates that Mr S knew why he was making the payments. Although he told HSBC that he was transferring funds to his own account – which was technically true – he bypassed HSBC's specific warnings about new accounts and potential scams. He also ignored the warning that explicitly stated, "If you're making an investment or buying cryptocurrency, you've chosen the wrong payment reason."

Whilst I can't say with absolute certainty how Mr S would have responded to a second or further warnings, his actions during the first payment strongly indicate that he would have proceeded regardless. His determination to complete the transaction suggests that any additional automated warnings – no matter how relevant – would likely have been unsuccessful in preventing the scam.

I've also reviewed Mr S's complaint regarding the receiving bank. That bank intervened each time Mr S attempted to transfer the funds he received from HSBC to a cryptocurrency exchange, which was the next phase of the scam. Each time, it provided clear and specific warnings about cryptocurrency investments. It also asked Mr S several questions, ensuring he understood the risks, and confirmed his intent to proceed. Despite these interventions, Mr S continued with the payments.

Mr S confirmed to the receiving bank that:

- The payments were for an investment.
- He wasn't being assisted in answering the bank's questions.
- He expected to gain from cryptocurrency investments.
- He hadn't been asked to install software.
- He discovered the investment opportunity through friends and family.
- He'd checked that the firm was on the FCA register.
- He was transferring funds to an existing account within his control.

Given these factors, I'm further persuaded that, aside from outright refusing to process the payments, HSBC wouldn't have been able to prevent the scam. Whilst HSBC's interventions fell short, the receiving bank took reasonable steps to protect Mr S and still failed to prevent his losses. So I can't hold HSBC responsible, as its actions – or lack thereof – didn't ultimately affect the outcome.

Recovery of the funds

Since Mr S transferred the funds to an account he controlled, recovery wasn't a viable option. Despite this, HSBC attempted recovery, but as Mr S had subsequently transferred the funds out of that account and to a cryptocurrency platform, it was unsuccessful. There's nothing further I'd have expected to do in this regard.

I'm very sorry that Mr S has fallen victim to this scam, and I understand that my decision will be disappointing. But for the reasons outlined above, I don't hold HSBC responsible for his losses. Whilst HSBC missed an opportunity to intervene before the second payment, I don't believe this made a difference to the ultimate outcome. So I don't require HSBC to put things right.

My final decision

I don't uphold Mr S's complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 24 March 2025.

Sam Wade
Ombudsman