

The complaint

Mr R complains that HSBC UK Bank Plc (HSBC) won't reimburse the funds he lost when he fell victim to a scam.

Mr R is represented in his complaint by a professional third party, but for ease, I will continue to refer to Mr R throughout this complaint.

What happened

Mr R says he was contacted by someone claiming to be a broker. Mr R says that the individual offered to mentor him and persuaded him to invest in cryptocurrency. Mr R realised that he had been the victim of a scam once he tried to withdraw money from the 'investment' and was charged excessive withdrawal fees.

Mr R transferred money from his HSBC account to an account he held with another bank I will refer to as M, before making payments to the scammer. Mr R says that HSBC should have intervened when he sent £5,200 to his account with M. And that if HSBC had intervened, Mr R would not have lost money to the scam.

The table below details the payments Mr R made from his HSBC account to his account with M:

No.	Date	Payee	Amount
1	17/10/2023	Mr R – account with M	£5,200
2	17/10/2023	Mr R – account with M	£80
3	19/10/2023	Mr R – account with M	£1,700
4	21/10/2023	Mr R – account with M	£1,500
5	23/10/2023	Mr R – account with M	£4,210
6	23/10/2023	Mr R – account with M	£3,400
7	24/10/2023	Mr R – account with M	£3,500
8	25/10/2023	Mr R – account with M	£3,600
9	25/10/2023	Mr R – account with M	£4,000
10	25/10/2023	Mr R – account with M	£1,800
11	25/10/2023	Mr R – account with M	£500

12	25/10/2023	Mr R – account with M	£360
13	26/10/2023	Mr R – account with M	£6,860
14	27/10/2023	Mr R – account with M	£4,720

Our investigation so far

Our investigator didn't recommend that Mr R's complaint be upheld. She didn't think the payments were particularly unusual or suspicious. Our investigator said that Mr R had previously made payments of a similar value (£5,000 on 25 September 2023). And our investigator thought that Mr R made the payments to an established payee – his external bank account. As Mr R didn't have any interaction with HSBC when he made the payments, our investigator didn't think it missed the opportunity to identify that the payments related to a scam.

Mr R disagrees with the investigation outcome. He says that the £5,000 payment in late September 2023 can't be used by itself to decide whether the subsequent payments he made were out of character. Mr R says he typically makes low value transactions, with a £2,000 payment to an ISA in December 2022, being the only other higher value transaction.

Mr R thinks that HSBC should have been on the lookout for signs of multi-stage fraud scams which frequently involve transfers from a high street bank to another EMI or new bank, before moving the money on to a cryptocurrency wallet.

Mr R points out that in October 2023, he transferred over £63,000 to his account with M, after paying in around £56,500 to his account with HSBC. Much higher than his usual monthly expenditure of around £1,500.

Mr R refers to another decision from the Financial Ombudsman Service which says that multiple escalating payments made in quick succession can be indicative of financial harm.

As the complaint was not resolved informally, it has been passed to me to decide.

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.

The type of payments Mr R has complained about aren't covered by the CRM Code as he made them to another account held in his own name. So, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make in accordance with the Payment Services Regulations 2017 and the terms and conditions of the customer's account. And I have taken this into account when deciding what is fair and reasonable in this complaint.

But that's not the end of the story. 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;

- have had 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). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

In this case, I need to decide whether HSBC acted fairly and reasonably in its dealings with Mr R when he made the payment requests, or whether it should have done more than it did. I have considered the position carefully.

All the transactions Mr R has asked HSBC to reimburse were to an established account in his own name with another bank. Looking at Mr R's HSBC bank statements he had been making regular low value payments to his external bank account going back to at least September 2022. Although payment 1 was for £5,200, he'd made a similar value payment to an investment trading merchant the month before. HSBC would have been reassured that Mr R wasn't making the payment to an account which a scammer had just asked him to open. And the confirmation of payee result is likely to have given further reassurance that the transaction was genuine. So, in the context of Mr R's account and HSBC's responsibilities, I don't consider it needed to stop payment 1 as it was not suspicious.

Looking at the subsequent transactions, there wasn't a pattern of increasing payments, as while Mr R made some higher value transactions, there were lower value payments too. On 25 October 2023, Mr R transferred over £10,000 to his account with B over five transactions. While I recognise that multiple payments in quick succession to a third party account can be concerning, payments to an established account in a customer's own name carry a significantly reduced risk.

Mr R's HSBC account was not left drained after he made the payments as he either transferred money to his current account from another account he held with HSBC or he received significant credits from an investment trading merchant. So, I don't consider the payments he made to M should have appeared unusual or suspicious to HSBC.

I should say that even if I were to have decided that the disputed payments were unusual (which I haven't), it wouldn't have made a difference here. This is because Mr R's other bank has already refunded 50% of his loss. As I consider Mr R contributed to the losses, I wouldn't award any more. I would just be splitting the 50% liability between Mr R's other bank and HSBC.

As Mr R paid the funds to his own external bank account before transferring them on, there was no prospect of HSBC being able to recover the money.

Overall, I am not satisfied HSBC should fairly have intervened when Mr R transferred funds to his account at M. So, while I am sorry to hear about this cruel scam and Mr R's loss, I don't ask HSBC to reimburse him. And there aren't any ways in which it can recover the funds for him.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or

reject my decision before 1 May 2025.

Gemma Bowen
Ombudsman