

The complaint

Mrs P is unhappy HSBC UK Bank Plc won't reimburse her for the money she lost when she fell victim to a scam.

What happened

Mrs P was contacted by an individual on social media in September 2022. Over a period of a few weeks, she's said that she began to chat with this person daily, developing what she believed was a close relationship and sharing many details of her life. During these conversations, this person introduced Mrs P to a cryptocurrency trading platform, saying that they had been able to make significant profits from it and could help Mrs P to do the same. Mrs P made an initial payment to the investment in October 2022, from an account she held with another bank ('S'). She went on to make a series of further payments to the investment, the first of these was from S, but the remainder were from her HSBC accounts. Unfortunately, and unknown to Mrs P, this investment opportunity was not legitimate, she was dealing with scammers.

When Mrs P asked to withdraw her profits, and was told she had to pay charges to do so, she began to question what the scammer was asking her to do. When he ultimately stopped responding to her, she realised she had been the victim of a scam.

Mrs P contacted HSBC to tell it what had happened. After looking into things, HSBC said it would not be able to refund the money she had lost, it said the payments were to accounts within her control, and so did not feel it was the point of loss or should bear liability for that loss.

Mrs P was unhappy with HSBC's response and so she referred her complaint to our service.

One of our Investigators looked into what had happened, and ultimately they felt that HSBC would not have been able to protect Mrs P from this scam. So, they did not consider that HSBC needed to refund any of Mrs P's loss.

Mrs P was unhappy with the Investigator's findings, she maintains that HSBC should have intervened in all the payments made, and says she was being controlled by the scammer, who told her to lie to HSBC about what the payments were for.

As no agreement could be reached, this case has 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 conclusion as our Investigator, and for the same reasons.

I'm satisfied Mrs P authorised the payments that are in dispute, so as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Mrs P is responsible for them. That remains the case even though Mrs P was the unfortunate victim of a scam.

Because of this, Mrs P 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 Mrs P, or whether it should have done more than it did.

I think it is important to note here that there is a lack of clarity around exactly which payments were part of the scam. Mrs P was initially represented by a solicitor, which claimed four payments to a cryptocurrency provider were the scam payments, but Mrs P has referred only to four payments she made to some international third parties. For completeness, I have reviewed this case as if all of these payments were to the scam.

Mrs P had opened her HSBC account in November 2022, so there was no significant account history against which HSBC could compare any new payments. Even so, many of the payments Mrs P made to the scam were high value, with some of them being identifiably sent to a payee associated with cryptocurrency, and given what it should know about scams I think this means that some level of intervention was warranted by HSBC before allowing some or all of the payments to be made.

And I can see that Mrs P did discuss two of the payments with HSBC, but Mrs P was not honest with HSBC in those interactions, she did not tell it the true purpose of the payments she was making, instead she said she was paying for building work, and paying for furniture. I've been able to listen to one of these calls and Mrs P does not come across as hesitant or unsure of what she is saying, so I think it was reasonable for HSBC to take her story at face value. I don't think it would have been clear from these interactions that Mrs P was falling victim to a scam.

In any case, as I have noted previously, Mrs P has said she was being guided and coached by the scammers on what to say regarding her payments. And we've seen from her interactions with the other bank she made payments from, that she did take steps to conceal the real purpose of the payments she was making. I think it is reasonable to conclude that, had HSBC insisted on speaking with her to find out about the circumstances surrounding the payments she made to the scam from her HSBC accounts, it is more likely than not that Mrs P would have again acted on the instructions of the scammer and taken steps to hide the true purpose of the payments. And the evidence suggests she would have been able to give a convincing story about why she was making these payments, as she did so on other occasions.

So, given that Mrs P appeared to have developed what she believed was a close personal relationship with the scammer, and appeared to trust them so much that she was willing to conceal what she was doing from the bank, I think it is difficult to say that intervention from HSBC would reasonably have prevented her from continuing with the payments she wanted to make, so I don't think HSBC could have reasonably prevented Mrs P's loss.

I also don't think that HSBC could have done anything to recover these funds once Mrs P reported the scam. Some of the funds were sent to another account in Mrs P's name, to buy

cryptocurrency, so there was no route through which HSBC would be entitled to retrieve any of those funds from the recipient account. And the remainder were sent to third parties overseas, again meaning that there would be very little chance of HSBC being able to retrieve any funds, particularly given the delay between the scam taking place and it being reported.

I don't doubt that Mrs P has been the victim of a cruel scam here, and I know that she has lost a very significant amount of money. But in all the circumstances of this complaint I don't think I can reasonably say that HSBC should be responsible for Mrs P's financial loss, so I won't be telling it to refund any of the disputed payments to Mrs P's account.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 28 November 2024.

Sophie Mitchell
Ombudsman