

## **The complaint**

Miss R complains about the actions of HSBC UK Bank PLC when she lost money to a scam.

## **What happened**

In October 2023 Miss R had been receiving messages on her phone about job opportunities. She responded to one of the messages and spoke with a merchant. After Miss R was provided with a website and login details, she was persuaded to start sending money to an account in her name at a genuine crypto exchange so that she could try and earn commission by increasing app ratings.

Miss R then sent around £2,665 across eleven payments over five days to a genuine crypto exchange. When Miss R was asked to make a further £4,111.08 payment, she realised she had been scammed. So, she contacted HSBC to try and claim her money back. But HSBC said that it hadn't done anything wrong so it wouldn't be offering her a refund. It also said that Miss R received the service she had paid for on her card so a chargeback would unlikely succeed. Unhappy with this response, Miss R contacted this service.

Our investigator didn't think the complaint should be upheld. He said that HSBC had stopped two of the transactions and spoke with Miss R. Although HSBC hadn't provided call recordings, he didn't think that Miss R would've been honest about the reasons for the payments because Miss R was told to tell the bank the payment was for her best friend, leaving HSBC unable to provide appropriate warnings about this type of scam. And because the payments were made by debit card to an account in Miss R's name then a chargeback wouldn't have been successful.

Miss R disagreed and asked for an Ombudsman's review. She said that HSBC should've stopped more of the payments and done more to uncover the scam.

## **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 largely the same reasons. I'm sorry to hear that Miss R has been the victim of a cruel scam. I know she feels strongly about this complaint, and this will come as a disappointment to her, so I'll explain why.

I've read and considered the whole file. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

Where the evidence is incomplete, inconclusive, or contradictory (as it is here), I have to make my decision on the balance of probabilities – that is, what I consider is more likely than

not to have happened in the light of the available evidence and the wider surrounding circumstances.

It is common ground that Miss R authorised the scam payments of around £2,665. She provided her card details to the scammer and made payments herself towards this scam. I accept that these were authorised payments even though Miss R was the victim of a scam. So, although it wasn't her intention to pay money to the scammers, under the Payment Services Regulations 2017 (PSRs) and the terms of her account, Miss R is presumed liable for the loss in the first instance.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for HSBC to take additional steps or make additional checks before processing a payment in order to help protect customers from the possibility of financial harm from fraud.

HSBC's first obligation is to follow the instructions that Miss R provides. But if those instructions are sufficiently unusual or uncharacteristic for the account, I'd expect HSBC to intervene and to ask their customer more about the intended transaction before processing it. I'd also expect HSBC to provide suitable warnings about common scams to help their customers make an informed decision as to whether to continue with the payment. There might also be cases where it's appropriate for HSBC to refuse to follow the instruction if there are good grounds to believe it is being made as a result of a fraud or scam.

Here, Miss R has provided screenshots that show she was told by the scammer to provide HSBC with an incorrect reason for the payments and she has confirmed that she was told to say this in other correspondence. As a result, when HSBC called to speak to Miss R, I'm satisfied – on balance – that she didn't provide the bank with the correct reason for making the payments to the genuine crypto exchange. I'll explain why below.

I've listened to the call recording where Miss R reported the scam to HSBC – the call recordings for the actual payments are no longer available. Within that call Miss R initially denied that HSBC had spoken to her to ask her if she made the payments. When HSBC said that it called her the day before to ask her if it was her making the payments, Miss R then said she did speak to HSBC.

During the same call, HSBC said that it also said to Miss R that it sent her messages asking her to authorise the payments – again Miss R denied that she did that – when Miss R was questioned again about this, she said she did receive the messages. This shows me that Miss R authorised the payments and was happy to not be honest with HSBC when answering its questions correctly. This means I'm satisfied – on balance – that she most likely followed the advice of the scammer, which was to provide the incorrect reasons for the payments when HSBC called her to ask why she was making them.

So, taking into account what Miss R said when reporting the scam and the messages from the scammer - which show she was being told what to say to HSBC to make sure the payments were sent - I'm persuaded – on balance – Miss R wasn't honest with HSBC when it asked her why she was making the payments - which in turn meant HSBC wasn't able to provide appropriate warnings about job scams and sending money to crypto exchanges.

I've considered whether HSBC acted reasonably when it was made aware of the scam. Having done so, I'm satisfied HSBC didn't treat Miss R unfairly by not continuing with a chargeback because Miss R was provided with the service she had paid for. Nor were there any other avenues that HSBC could've been successful in retrieving Miss R's funds here.

I appreciate this will come as a disappointment to Miss R, and I'm sorry to hear that she has been the victim of a cruel scam. As a result, I'm not persuaded that HSBC can fairly or reasonably be held liable for her loss in these circumstances.

**My final decision**

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 19 February 2025.

Mark Dobson  
**Ombudsman**