

The complaint

Mr P complains about the actions of UBS AG when he lost money to a scam.

Mr P is being represented by a claims management company but, for ease, I'll only refer to Mr P.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In 2022 Mr P met a third-party on a dating website. After speaking for around six months the third-party mentioned crypto investing via a merchant. The third-party showed Mr P how to invest and open wallets in Mr P's name at the crypto exchanges. He started making payments from another account he held with a Bank – I'll refer to here as D. The third-party put pressure on Mr P to only invest when he was told to do so and he then made the following payments to a genuine crypto exchange from his UBS account before moving the money to the merchant's platform;

Date	Type of payment	Amount
24 February 2023	Transfer to crypto exchange	£250,050
02 March 2023	Transfer to crypto exchange	£250,050
10 March 2023	Transfer to crypto exchange	£250,050
13 March 2023	Transfer to crypto exchange	£240,050
20 March 2023	Transfer to crypto exchange	£230,050
20 April 2023	Transfer to crypto exchange	£95,050
24 April 2023	Transfer to crypto exchange	£90,050
	Total	£1,405,350

After he was asked to pay a high withdrawal fee Mr P became suspicious and realised he had been scammed when he lost contact with the scammer. So, he raised a claim with UBS. UBS didn't offer to refund Mr P his money, so he brought his complaint to the Financial Ombudsman.

Our Investigator didn't think the complaint should be upheld. He said UBS should've intervened in some of the above payments but even if it did it wouldn't have made a difference. Our Investigator said that it was more likely than not that Mr P would've given the same answers he gave to D when it spoke to him on the phone which would've meant Mr P denying that there were any third parties helping him with the payments and that he was making the investment by himself. Our Investigator added that he didn't think Mr P would've provided sufficient contradictory information that would've made UBS reasonably suspicious so as to invoke Banking Protocol.

Mr P disagreed and has asked for an Ombudsman's review. In summary he said that UBS failed to ask probing questions here and missed opportunities to intervene and subsequently uncover the scam. Mr P said the interventions by D weren't sufficient to uncover the scam so shouldn't be considered persuasive when deciding if UBS could've also uncovered this scam

had it intervened further. Mr P said D didn't do enough to try and satisfy itself there wasn't a romance scam element to this complaint – referring to the Financial Conduct Authority's (FCA) Multi-firm review of Romance fraud. He added that he should've been invited into branch to discuss the payments under the Banking Protocol which would've more than likely uncovered 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.

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.

I should also point out that I review each case on its own merits. And although, for background and context, I've considered Mr P's complaint about D, my findings here relate mainly to UBS's actions.

It is common ground that Mr P authorised the scam payments. I accept that these were authorised payments even though Mr P was the victim of a scam. So, although it wasn't his intention to pay money to the scammers, under the Payment Services Regulations 2017 (PSRs) and the terms of his account, Mr P 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 UBS 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.

UBS's first obligation is to follow the instructions that Mr P provides. But if those instructions are sufficiently unusual or uncharacteristic for the account, I'd expect UBS to intervene and to ask their customer more about the intended transaction before processing it. I'd also expect UBS 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 UBS 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.

I've now had the opportunity to fully consider all of Mr P's detailed submissions, as well as the call recordings of the conversations that took place between Mr P and D when he was trying to make payments towards the scam. Having done so, I don't think UBS would've been able to stop this scam. I'll explain why below.

Like our Investigator, I'm satisfied UBS should've done more here to stop the payments Mr P was making to the crypto exchange. They were extremely high value to a high risk and new beneficiary. So, I'm satisfied that UBS should've asked some probing questions to understand why he was making them, but I'm not persuaded that this would've likely made a difference to the outcome.

For me to find it fair and reasonable that UBS should refund the payments to Mr P would require more than a finding that it should've done more to intervene when he made his payments. Crucially, I'd also need to find that but for that failure, the subsequent loss would've been avoided.

That latter element concerns causation. A proportionate intervention will not always result in the prevention of a payment. And if I find it more likely than not that proportionate intervention by UBS wouldn't have revealed any of Mr P's payments were part of a fraud or scam, then I couldn't fairly hold it liable for not having prevented them from being made.

UBS did have a brief conversation with Mr P when he made the first payment. But that conversation was very generic and concentrated more on confirming how Mr P had obtained the payment details for the crypto exchange rather than asking him probing questions about why he was investing in crypto and how he came to make such a decision. I'm satisfied those questions didn't go far enough. But when deciding whether further probing questions would've made a difference here I've reviewed the calls Mr P had with D in February 2024.

D asked Mr P on the calls how he heard about this 'investment'. Mr P didn't respond truthfully. He initially said in the first call that he had heard about crypto from a friend and said he hadn't been told to invest and hadn't been told to open the accounts at the crypto exchanges by a third-party. Mr P said this was an inconsistency D should've picked up on in his answers in relation to how he had come to know about crypto. But I don't agree. Mr P said he had completed his own research and that he was just learning and that *'it had also been recommended by a friend he had known for a long time'*. I don't agree that was inconsistent or that Mr P was admitting his friend was pressuring him into investing. It's completely plausible that friends would discuss crypto and recommend it as an investment. And even if D had probed more, I think Mr P wouldn't have disclosed that the reason for him making the payment was because he was being instructed and guided by his friend. In fact, Mr P was clear that no one had helped him open the account with the crypto exchange and that no one else had access to it. He also said that the money wasn't being moved from the crypto exchange to another platform, that he had completed his own research and he wasn't dealing with a broker or other third-party.

During a later call with D, Mr P was referred back to his answer in the first call where he said he had found out about crypto investing from a friend. He was then asked if he had known them for a long time and if he had come across them online to which he said he'd known them for several years and he hadn't come across them online and that no one was guiding him – which wasn't accurate. So, I don't agree with Mr P that if UBS had asked more questions about how he had discovered the investment that his answers would've differed from what he had already told D. He was then told by D that the reason he was asked about his friend and whether he was doing this by himself was because D was aware of people sending everything they own to crypto on the recommendation of a friend who turns out to be a scammer, so D was trying to make sure it was his own decision. However, that didn't resonate with Mr P at the time. And he continued to make payments.

So, even if UBS had probed further on the phone, I think it's more likely than not that Mr P would've provided the same answers to UBS as he did to D. The first payment from UBS occurred later in February 2023 which is when Mr P was also making payments from D. So, if UBS had probed further, it's more likely than not it would've been provided with similar misleading answers from Mr P.

Mr P was also calm and clear on the phone with D when he said that no one was telling him to invest and no one was pressuring him to do so. Mr P mentioned that he had heard about crypto investing from a friend in the first call with D in early February 2023. But when D probed further, he denied that he had met the friend online. Instead, he inaccurately told D that he had known the 'friend' for many years. In the later calls with D, on 20 February 2023, Mr P told D that he was investing himself and that he had completed his own research into the opportunity. At that point he didn't admit that he had discovered the opportunity via a friend. Given that call took place just a few days before UBS spoke to Mr P, I think it's

reasonable to say – on balance – that Mr P may not have even admitted that it was a friend who had suggested crypto to him.

Mr P has said UBS could've asked probing questions to uncover that there was a romance scam element to his payments. And that the scam messages don't reveal a relationship notably deeper from the typical dynamic on display in romance scams. Firstly, the multi-firm review he has mentioned was first published around two years after he made these payments. But although I accept that Mr P wasn't asked probing questions by UBS and he has said that probing questions would've help uncover the scam, such probing questions will only get banks so far if the consumer isn't willing to provide accurate answers. In Mr P's case it was clear he was willing to say whatever he could to get the payment released. He was clear that he was investing himself and no one was pressuring him. He maintained that story in all the calls with D – so it stands to reason that the same approach would've likely been adopted with UBS.

Additionally, I've seen in the chats the following exchange between Mr P and the scammer on 6 February 2023;

“Mr P: Yes I will, but I need to understand what is possible from my bank without telling them anything

Scammer: I think it needs to be visited. It is, after all, very important.

Scammer: Yes. Just tell them you need access to your funds.

Mr P: This is guaranteed my sweetheart....I will never jeopardise anything that involves you...”

And the following on 09 February 2023;

“Mr P: My UK account kept getting suspended due to fraud protection, each time it takes about one hour in the telephone to clear...”

Scammer: I see. So have your funds now reached your... account?

Mr P: Only four banks are willing and the first one stopped my transaction and returned the money

Mr P:... now saying they have a technical anomaly...

Scammer: Banks always have various reasons and excuses to refuse some of our transfers, such as fraud or money laundering. I have been in this situation many times. Because they don't want their money to go overseas.

Mr P: Don't worry I will get there

Mr P: Yes I have had this many times also

Scammer: You can ask...customer service why your funds are not available

Scammer: We just need to stick to telling them we need to move our funds.

Scammer: But don't forget to keep our secrets

Scammer: Honey, if you have any questions, you can ask me. I hope I can help you.

Mr P: You must never worry my darling...do not mention this for I will never betray you. It is not important if I cannot do transactions yet...

Scammer: Do you check your...exchange in a timely manner? Have you received your funds?

Mr P: It might be problematic but it is better to find out their position if the deal goes wrong

Mr P: No funds...I checked 10 minutes ago

Scammer: You need to know what their expected price is. But you can't take them into account too much and put yourself at a disadvantage

Mr P: This is why I love you so much... you are so smart ...you can never trust banks and I have had difficulty with them..."

I'm satisfied the above messages and the others in the chat show that Mr P trusted the scammer completely and felt they were in a relationship. Ultimately, it appears to me that Mr P was assured of his relationship with the scammer at this point – so much so he was prepared to provide inaccurate answers to D, and more likely than not UBS, so his money could be sent to the crypto exchange.

Mr P said that due to the payment size UBS should've invoked the Banking Protocol. I've thought carefully about that, but I don't agree. I except that very large payments were made from this account. But UBS would be used to its customers making such large payments and was aware that Mr P was using funds from a prior investment he had with his wife. So, UBS would've been expecting him to decide what he wanted to do with those funds, and I wouldn't have expected UBS to have been sufficiently suspicious of Mr P's first payment to have immediately invoked Banking Protocol here. I would've expected better questioning and probing to ask Mr P about his investment decision on the phone before deciding, based upon his answers and the payment size, whether Banking Protocol was necessary here. But given what I've said above about his most likely answers to any probing questions from UBS, I don't think UBS would've been sufficiently suspicious of Mr P's answers to have invoked Banking Protocol here.

Even if UBS did decide to invoke the Banking Protocol on the first payment or one of the later payments, I don't think the scam would've been uncovered here as Mr P has suggested. That's because Mr P was clear in his responses to D and in the chat that he wasn't going to disclose why he was making the payments. So, even with a greater intervention with further probing questions in a branch about his reasons for the payments, where it was going to be sent any why, I think Mr P would've stuck to his story that he was investing by himself with no third-party merchant and that no one was assisting him or pressuring him. He had been told by D already that sometimes friends will tell people to invest in crypto and then turn out to be scammers who take their money. I appreciate Mr P believes he would've listened to the UBS's advice at the time, but I think that is being said with the benefit of hindsight. I don't think at the time of the payments he was open to any further warnings or questioning about crypto scams nor am I satisfied he would have disclosed any information that would've made UBS think he was involved in a romance scam as Mr P has suggested.

Mr P has told this service he had been speaking to the scammer for a number of months before he was convinced to invest in crypto and it's clear from the messages he trusted her completely and didn't appear to trust the banks – including D's interventions. He appears to

have regarded the interventions by D as an obstacle and hindrance rather than a supportive measure designed to help keep his money safe. He was told not to disclose *'their secrets'* and said he wouldn't do so. He was then repeatedly clear with D that there was no one else involved in his decision to invest.

As I mentioned above Mr P has suggested questions that could've been asked about the payment destination and the friend that he wouldn't have been able to answer or provide sufficient evidence to satisfy UBS he wasn't likely being scammed. But the questions Mr P has suggested would rely on a level of accuracy and honesty about the reasons for the payments that wasn't present in his exchanges with D and the scam messages. I note he said it was a friend that had 'suggested' he invest in crypto. But he brushed any further questions off about how he had met the friend and how long he had known her with inaccurate answers. Ultimately, in order for me to reasonably ask UBS to refund Mr P's payments, I must be satisfied, on balance, that it's questions would've been answered accurately or with such a level of inaccuracy and inconsistency that UBS reasonably could've thought the payments were part of a scam. Unfortunately, given the evidence I have available to me, I don't think UBS would've - more likely than not - reached such a conclusion.

I've considered whether UBS acted reasonably when it was made aware of the scam. Having done so, I'm satisfied UBS wouldn't have been able to recover any of Mr P's funds here because he confirmed it was all sent to the fake trading platform from the crypto exchanges.

I appreciate this will come as a disappointment to Mr P, and I'm sorry to hear that he has been the victim of a cruel scam. But I'm not persuaded that UBS can fairly or reasonably be held liable for his 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 Mr P to accept or reject my decision before 12 February 2026.

Mark Dobson
Ombudsman