

The complaint

Mr P complains that HSBC UK Bank Plc (HSBC) won't refund money he lost in a scam.

What happened

What Mr P says:

Mr P was contacted by someone on Facebook and then on WhatsApp on 6 November 2023. He got talking to her and they became friendly.

The person then shared details of her online business. She explained that people chose products and elected to buy them. The person provided screenshots of her online store. Mr P searched it and found it seemed reputable. It had a high rating on Trustpilot.

He was then asked to fund purchases and had to make payments to a crypto wallet – he made six payments as shown:

Date	Payment	Amount
9 November 2023	Debit card to crypto wallet	£100
11 November 2023	Faster payment to crypto wallet	£300
11 November 2023	Faster payment to crypto wallet	£900
12 November 2023	Faster payment to crypto wallet	£300
16 November 2023	Faster payment to crypto wallet	£300
17 November 2023	Faster payment to crypto wallet	£2,000
22 November 2023	<i>Faster payment to crypto wallet – blocked by HSBC</i>	<i>£2,900</i>
5 December 2023	Chargeback refund	(£100)**
Total net loss		£3,800

** chargeback

On 26 November 2023, he was asked to pay for a large order which he couldn't afford. He was then told his account would be suspended until he paid. He asked to close his account, but without any response – he then realised he'd been scammed of his money.

Mr P says his physical and mental health has been affected by what happened. He can't focus on his work. He says HSBC should've done more to protect him. He didn't know he

was talking to a fraudster. He says HSBC should have stopped the payments and asked him about them. The scam would then have been uncovered and he wouldn't have lost the money. He says HSBC should refund £3,900.

What HSBC said:

HSBC said Mr P should complain to the provider of the crypto wallet - as it was from there that the scam payments were transferred.

Our investigation so far:

Our investigator didn't uphold Mr P's complaint. He said the payments in question weren't particularly unusual. They were low value payments compared to others he had made. For example, there was one for £4,000 on 20 October 2023. He said the Contingent Reimbursement Code (CRM Code) didn't apply as the payments were made to an account in Mr P's name.

Mr P didn't agree; he repeated his complaint points and asked that an ombudsman look at his 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 hear that Mr P has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. So although Mr P didn't intend for the money to go to a scammer, he is presumed to be liable for the loss in the first instance.

So, in broad terms, 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 and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is 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 anti-money laundering, countering the financing of terrorism, and 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 make 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.

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

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code)

provides for refunds in certain circumstances when a scam takes place. But – it doesn't apply in this case. That is because it applies to faster payments made to another UK beneficiary – and in this case, the payments were made to Mr P's own account – his crypto wallet.

I looked at Mr P's HSBC account. As our investigator said, he did make regular transfers of around £2,000 to £5,000. But – these were 'internal' transfers within HSBC and to an account in his own name, so I don't regard those as payments to other people or businesses, so on that point I disagree with our investigator.

But aside from that, while I accept the payments he made were a lot of money to Mr P, the payments in question were in fact fairly low value ones. There was also nothing else about the payments that ought reasonably to have concerned HSBC.

There's a balance to be struck: HSBC has certain duties to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction as this would cause unnecessary disruption to legitimate payments. In this case, I think HSBC acted reasonably in processing the payments without intervening and contacting Mr P.

Crypto: We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether HSBC took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost money.

But here, the funds went from the bank account to a crypto currency merchant and the loss occurred when crypto was then forwarded to the scammer. In this case, as the funds had already been forwarded on in the form of cryptocurrency there wasn't likely to be anything to recover.

I'm sorry Mr P has had to contact us in these circumstances. I accept he's been the victim of a cruel scam, but I can't reasonably hold HSBC responsible for his loss.

My final decision

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 14 February 2025.

Martin Lord
Ombudsman