

## **The complaint**

Ms H has complained that HSBC UK Bank Plc won't refund the money she lost after falling victim to a scam.

## **What happened**

In 2021, Ms H was contacted on social media by a scammer posing as a trader. They persuaded Ms H to invest with them and then later to pay a large withdrawal fee. Over the course of a week or so, Ms H sent the scammer over £5,000. She did this by making card payments from her HSBC account to a cryptocurrency account of her own, then she sent crypto onto the scammer.

Ms H was unable to withdraw her money, the scammer asked for another large fee, and then her messages were ignored. Ms H realised she'd been scammed.

HSBC looked into doing a chargeback but found they didn't have grounds to do so. They didn't think they were liable for Ms H's loss.

Our Investigator looked into things independently and didn't uphold the complaint. Ms H's representatives asked for an ombudsman's review, so the complaint's 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.

I understand that Ms H fell victim to a scam, and so she has my sympathy. I appreciate this can't have been an easy time for her, and I appreciate why she feels that her money should be returned. It's worth keeping in mind that it's the scammer who's primarily responsible for what happened, and who really owes Ms H her money back. But I can only look at what HSBC are responsible for. Having carefully considered everything that both sides have said and provided, I can't fairly hold HSBC liable for Ms H's loss. I'll explain why.

It's not in dispute that Ms H authorised the payments involved. So although she didn't intend for the money to go to a scammer, under the Payment Services Regulations she is liable for the loss in the first instance. And broadly speaking, HSBC had an obligation to follow her instructions – the starting position in law is that banks are expected to process payments which a customer authorises them to make.

HSBC should have been on the lookout for payments which could be the result of fraud or scams, to help prevent them. But a balance must be struck between identifying and responding to potentially fraudulent payments, and ensuring there's minimal disruption to legitimate payments. I've thought carefully about whether HSBC should have done more in Ms H's case.

However, while this was a substantial total amount to lose, and while I do sympathise with Ms H on that front, the spending was relatively spread out here. It was not quite large enough or rapid enough at any point that I'd have expected HSBC to intervene. Customers do sometimes make larger payments, and these payments were properly authorised, to an account of Ms H's at an established exchange. And Ms H didn't speak with HSBC's staff directly about these payments, so they didn't miss an opportunity to question her about them. Ultimately, I don't think the payments involved were quite so unusual that HSBC needed to intervene.

Next, I've considered what HSBC did to try to recover Ms H's money after she told HSBC about the scam. Unfortunately, as Ms H had sent the money to her own account at an exchange and then onto the scammer, it wasn't possible to recover any funds. As these were card payments to a crypto account in Ms H's control, they weren't covered by the CRM Code for scams, either. And there was no chargeback reason which would've been appropriate here. A chargeback would've been a claim against the exchange rather than the scammer. And the exchange provided the service they were supposed to. So there was no realistic prospect of success for a chargeback, either. As such, there wasn't really anything more that HSBC could reasonably do to get Ms H's money back here.

So while I'm very sorry to hear about what the scammer did to Ms H, I don't think HSBC can fairly be held responsible for her loss. And so I cannot fairly tell HSBC to refund Ms H's money in this case.

### **My final decision**

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 30 January 2025.

Adam Charles  
**Ombudsman**