

The complaint

Mr P and Ms S have complained that HSBC UK Bank Plc won't refund the money they lost after falling victim to an alleged scam.

What happened

Both sides are most familiar with the case, so I'll summarise things in brief.

Between summer 2022 and spring 2023, Mr P and Ms S sent £19,000 to two firms for an investment, using card payments. They stopped getting answers to their communication, and found out that the companies involved were under investigation. Mr P and Ms S believe this was an investment scam.

Mr P and Ms S complained to HSBC in 2024. HSBC explained it didn't think it was liable for the loss, and it was too late to try a chargeback.

Our Investigator looked into things independently and didn't uphold the complaint. Mr P and Ms S's representatives asked for an ombudsman to make a final decision, 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 Mr P and Ms S have likely lost a good deal of money, and may have fallen victim to a scam, and so they have my sympathy. I appreciate this can't have been an easy matter for them to face, and I appreciate why they would like their money to be returned. It's worth keeping in mind that it's the companies involved in the investment who are primarily responsible for what happened, and who would really owe Mr P and Ms S their 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 Mr P and Ms S's loss. I'll explain why.

It's not in dispute that Mr P and Ms S authorised the payments involved. So although they didn't intend for the money to go towards a potential scam, under the Payment Services Regulations they are liable for the loss in the first instance. And broadly speaking, HSBC had an obligation to follow their 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 Mr P and Ms S's case.

However, I don't think the payments involved were so unusual or out of character that HSBC needed to intervene. While they were fairly large, they were spread out over the course of around seven months. Mr P and Ms S made a number of payments of similar or notably higher values in the preceding period, including payments for investments, so this was broadly in character with their previous activity. And there was nothing else about the payments which should've reasonably prompted HSBC to intervene.

Next, I've considered what HSBC did to try to recover Mr P and Ms S's money after they told HSBC about the scam. But as these were card payments, it wasn't possible to recover them in the same way as bank transfers, and they were not covered by the CRM Code for scams. And by the time Mr P and Ms S reported the scam, it was not possible to get the money back through a chargeback. So there wasn't anything more that HSBC could've reasonably done to get the money back.

So while I'm sorry to hear about the amount Mr P and Ms S have likely lost, I don't think HSBC can fairly be held responsible for that. And so I can't fairly tell HSBC to refund Mr P and Ms S'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 Mr P and Ms S to accept or reject my decision before 20 February 2025.

Adam Charles
Ombudsman