

## **The complaint**

Mrs N complains that HSBC UK Bank Plc will not refund the money she lost when she was the victim of a scam.

## **What happened**

Mrs N had previously been the victim of several different scams, these included an investment scam in 2021, a recovery scam in 2022, and – in 2023 – a purchase scam, an impersonation scam and another investment scam. In around April 2023 Mrs N says she then came across a company on social media – which I'll call 'B' – which told her that all of her previously lost funds could be recovered. Mrs N entered into extensive communications with B, via messaging services and on the phone, and over the course of several months she made payments totalling over £300,000 to B via various accounts she held with banks and e-money institutions (EMIs), and via her cryptocurrency accounts. It appears that these payments were for various fees, taxes and charges she was told she needed to pay to recover her money.

At some stage in early 2024 it appears that Mrs N realised she had likely been the victim of another scam. So, with the assistance of a professional representative, Mrs N contacted the various banks and EMIs involved and asked them to refund her loss.

HSBC considered Mrs N's circumstances, but did not think it was liable for any of her loss. It said the payments had been to Mrs N's own accounts held elsewhere, it also felt it had taken appropriate steps to intervene in the payments Mrs N had made.

Mrs N was unhappy with HSBC's response, so she referred the complaint to our service.

One of our Investigators looked into what had happened, but while they felt HSBC should have done more to intervene in the payments Mrs N was making, they did not consider that HSBC could have done anything to prevent Mrs N's loss. This is because they felt the evidence showed that Mrs N was not being honest with the various banks involved, and that she was following the scammer's instructions regardless of any warnings she was given.

Mrs N did not accept the investigator's findings. She maintains that HSBC should have questioned her in more detail about the payments she was making, and says that, had it done so, the scam could have been stopped and her further loss prevented. This complaint is closely linked to various other complaints Mrs N has referred to our service about the other banks involved, where she also did not agree with the investigator's findings. So, all of Mrs N's cases have now been referred to me for review so that I can consider the whole picture.

## **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 overall outcome as the investigator, I'll explain why.

It's not in dispute that Mrs N authorised the payments that are the subject of this complaint. So, as per the Payment Service Regulations 2017 (which are the relevant regulations in place here) that means Mrs N is responsible for them. That remains the case even though she was the unfortunate victim of a scam. And the payments Mrs N made as a result of this scam were either to accounts in her own name, or to purchase cryptocurrency on the peer-to-peer market, and so the terms of the Contingent Reimbursement Model Code (the Code), are also not relevant here.

Because of this, Mrs N is not automatically entitled to a refund. Nonetheless, the regulatory landscape, along with good industry practice, sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams.

Taking the above into consideration, I need to decide whether HSBC acted fairly and reasonably in its dealings with Mrs N, or whether it should have done more than it did.

In this case, I agree with our Investigator that the second payment Mrs N made to the scam from her HSBC account should have caused HSBC some concern. This payment was for almost £5,000, was identifiably going to a payee associated with cryptocurrency, had been preceded by Mrs N taking out a loan which she claimed was for home improvements, and followed Mrs N then trying to transfer the majority of that loan balance (£12,000) to her cryptocurrency account. Given what HSBC would have known about the risk of such payments, I think it would have been appropriate for it to step in at this stage to ask Mrs N some questions to establish the circumstances surrounding this payment.

HSBC did not contact Mrs N about this payment, but it had tried to contact her about the attempted payment that preceded it. At that time Mrs N told HSBC it was not a good time to talk. Mrs N then spoke to HSBC about a later payment, on 15 September 2023, but Mrs N was not honest with HSBC about what she was doing. She said she was buying cryptocurrency, and had been doing so for many years, she also told it that there was no investment company involved in her payments, and that nobody was assisting her, this was not true.

I'm also aware that various other banks and EMIs involved in the payments to the scam also intervened at various stages. I won't detail every interaction that took place, but I think it is worth specifically highlighting the following:

- On 18 July 2023 Mrs N spoke to her husband's bank about a payment being made to one of her accounts (which was then used to fund the scam) Mrs N said this payment was to help her buy a car and pay off loans, this was untrue.
- On 28 July 2023 in a call with her husband's bank Mrs N was told that bank had detected the use of screen-sharing software, Mrs N said this was because her brother was helping her, this does not appear to have been true. In that same call she again said payments were to help her pay off loans and credit cards, which was untrue.
- On 29 August 2023 Mrs N was questioned by one of the EMI's she was making payments from (R), she said she had been investing for two years, that she had learned about the platforms she was using from friends, that she was holding the cryptocurrency she was buying in her own wallet that she had access to, and that she was able to withdraw her cryptocurrency via an exchange. What she said does not reflect the truth of the situation she was in, and Mrs N gave no indication that anyone was helping her or asking her for payments, nor did she mention B.

- On 14 September 2023 Mrs N spoke with one of her banks (N) she told it that nobody was asking her to buy cryptocurrency and that she had found the investment herself, this was not true.
- On 18 September Mrs N told a different bank (C) that she had been buying cryptocurrency for many years, that the investment was her own decision, and that she had been able to withdraw funds from her investment. The next day she spoke to this bank again and confirmed that nobody had asked her to make the payment or told her how to answer.
- On 19 October 2023 Mrs N told another bank (M) that she'd been making this type of investment for many years and had been able to withdraw funds, she said nobody had contacted her about the investment.

I can also see from Mrs N's conversation with the scammer that she clearly trusted them a great deal. Not only did she apparently given them access to her bank accounts, she also asked for advice on how to deal with some of the interventions her various banks were making in the payments – including asking for advice after HSBC tried to talk to her about the failed £12,000 payment. Mrs N also took steps to make payments from elsewhere when any particular bank or EMI blocked payments.

With all of this in mind this in mind, I'm satisfied that even if HSBC had intervened earlier on in the scam, it would not have stopped Mrs N from proceeding with the payments.

I say this because Mrs N appears to have not been honest with any of the involved parties about exactly what she was doing. She didn't mention the involvement of B at any stage and appears to have been directly seeking guidance from the scammers on how to deal with interventions from the various involved parties. At no point did she mention that she was making payments to recover funds that she thought she had lost to a previous scam. I understand that Mrs N seems to have sincerely believed that she was taking steps that would enable her to recover a significant amount of money. But the fact remains that the scammers were manipulating her into being dishonest about what the payments were for, and she was evidently taking steps to conceal her true motives for the payments from the banks and EMIs involved, and this would have seriously impaired any of those parties' ability to uncover the scam.

So as everything Mrs N said would have suggested to HSBC that the most likely scam she might be falling victim to would be an investment scam, any warnings it gave her would have been focused on that risk. And I can see that during her various interactions with the parties involved Mrs N received several scam warnings about cryptocurrency investments, which highlighted red flags to look out for. Some of those would have been relevant to Mrs N – such as being told to lie or give a false story about payments, being promised very high returns, being contacted via social media or messaging services, and the use of remote access software – but this still did not make Mrs N stop to question what was going on.

Mrs N was clearly so far under the spell of a sophisticated scammer that any warnings were not able to break that spell. And Mrs N continued to make payments to the scammers, using a different account each time a bank or EMI blocked her payments.

So, given that Mrs N had received relevant warnings, but had continued to make payments, and that she had been dishonest with more than one bank about the circumstances surrounding the payments, it is very difficult for me to say that any similar questioning or warnings from HSBC would have given us a different result. I think it is more likely than not that Mrs N would have continued to follow the instructions of the scammer and not be entirely honest about what she was doing and why.

I've also thought about whether HSBC did all it could to try to recover Mrs N's funds when she told it of the scam. But given that the destination of these payments was either to Mrs N's own accounts or to buy cryptocurrency, I can't see that there was anything HSBC could have done to recover those funds.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms N to accept or reject my decision before 24 April 2025.

Sophie Mitchell  
**Ombudsman**