

The complaint

Mr G's complaint is about HSBC UK Bank Plc's refusal to reimburse him money he says he lost due to a scam.

Mr G is represented by The Claims Experts Ltd (*trading as*) Impakt Claims in this matter. However, I will refer to Mr G solely in this decision for ease of reading.

What happened

The circumstances of this complaint are well known to all parties concerned, so I will not repeat them again here in detail. However, I will provide an overview of events.

Mr G is a customer of HSBC. In short, Mr G says he has fallen victim to a cryptocurrency investment scam. He says that a fraudster who had messaged him on WhatsApp tricked him into making payments to what he thought was a legitimate investment via 'KuCoin'. The card payments in question are:

Payment Number	Date	Statement Date	Merchant	Amount
1	15 August 2023	21 August 2023	Cro	£1,029
2	19 August 2023	21 August 2023	Bitget	£2,000
3	21 August 2023	22 August 2023	Bitget	£150
4	13 September 2023	14 September 2023	Moonpay	£30
5	15 September 2023	18 September 2023	Moonpay	£3,000

Mr G disputed the above with HSBC. When it refused to reimburse him, he raised a complaint, which he also referred to our service.

One of our investigators considered the complaint and did not uphold it. In summary, he thought HSBC should have intervened in Payment 5 by providing Mr G with a warning. However, the investigator also felt that had HSBC done so, it would not have made a difference. Mr G rejected the investigator's findings stating, in short, that HSBC missed an opportunity to protect him from financial harm.

As Mr G did not accept the investigator's findings, this matter has been passed to me to make a decision.

It should be noted that Mr G also made payments in relation to the scam from an account he

holds with Revolut. Mr G has raised a complaint about this, which is being dealt with separately.

What I have 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 agree with the outcome reached by the investigator at first instance for the reasons I set out below.

But first, I would like to say at the outset that I have summarised this complaint in far less detail than the parties involved. I want to stress that no discourtesy is intended by this. If there is a submission I have not addressed, it is not because I have ignored the point. It is simply because my findings focus on what I consider to be the central issues in this complaint.

Did any of the payment transactions indicate Mr G might be at risk of financial harm?

It is not in dispute that Mr G authorised the payment transactions in this matter. Generally, consumers are liable for payment transactions they have authorised. However, that is not the end of the story. This is because even if a payment is authorised, there are regulatory requirements and good industry practice which suggest firms – such as HSBC – should be on the look-out for unusual and out of character transactions to protect their customers from financial harm. And, if such payment transactions do arise, firms should intervene before processing them. That said, firms need to strike a balance between intervening in a customer's payment to protect them from financial harm, against the risk of unnecessarily inconveniencing or delaying a customer's legitimate transactions.

I have borne the above in mind when considering the payment transactions in this matter.

Payment 5

I am persuaded that Payment 5 (set out above) was unusual and out of character. I say this because of the value of the transaction and the fact it was identifiably going to a cryptocurrency platform. That said, I note from Mr G's bank statements that the payments concerned are not the first cryptocurrency related transactions he made from his HSBC account. I can see he made at least four – predating those concerned – to Cro, Crypto.com and Bitget. Mr G does not appear to be disputing these payments.

Given the above aggravating factors, I think there was an identifiable risk. Therefore, Payment 5 should have triggered HSBC's fraud detection systems; prompting it to intervene before releasing the transaction to try to protect Mr G from financial harm. I am mindful of the fact that Payment 5 occurred post the FCA's Consumer Duty. I have taken this together with the aggravating factors present.

In doing so, whilst I agree with the investigator that HSBC should have intervened in Payment 5, I am not persuaded that this should have been a human intervention. My view is that a proportionate intervention to the risk identified should have been a scam warning tailored to the likely cryptocurrency related scam Mr G was at risk from. For example, a warning asking a series of automated questions designed to narrow down the type of cryptocurrency related scam risk associated with the payment transaction being made.

HSBC failed to do this.

Would an intervention have made a difference?

As I have taken the view that Payment 5 should have triggered an intervention by HSBC, I must now turn to causation. Put simply, I need to consider whether HSBC's failure to intervene caused Mr G's loss. To do this, I need to reflect on whether such an intervention (described above) would have made any difference. Having done so, I am not persuaded that it would have. I take the view that, on the balance of probabilities, Mr G would have frustrated HSBC's attempt to intervene; and would have alleviated any concerns HSBC had.

I have reached this view for the following reasons.

Firstly, turning to the available WhatsApp messages between Mr G and the fraudster, 'Alexa'. The periods of these messages are: 26 July 2023, and 15 September 2023 to 13 November 2023. These messages have assisted me with considering how taken in by Alexa Mr G was, and what would have likely happened had HSBC intervened in Payment 5. From the messages available, they suggest to me that Mr G had developed strong feelings for Alexa and fully trusted her during the period concerned. For example, in several of the messages, Mr G expressed his love for Alexa, which she responded to in kind.

Secondly, turning to the missing WhatsApp messages between Mr G and Alexa. From what I can see, Alexa first contacted Mr G on 26 July 2023. I have been provided with a copy of this message chain, but Mr G has not been able to provide messages for the period between 27 July 2023 and 14 September 2023. I do not want to assume the content of these missing messages. However, what is clear to me is that whatever was discussed during this 'missing period' – must have been significant in terms of the development of Mr G's trust and feelings for Alexa. I say this because when I can pick back up the messages from 15 September 2023, I can see that Mr G had made some significant payments under the instruction of Alexa. For these reasons, I think it would be reasonable to suggest that whatever Alexa said/did to put Mr G under her spell during the missing period – would have played a part in frustrating any intervention from HSBC.

Thirdly, Mr G told the investigator at first instance that he had deleted the missing messages at the time of the scam because he did not want to be contacted by Alexa further. However, I am sure that most would agree that this would not be the method to engage to prevent someone contacting you. Further, Mr G has clearly kept some messages between himself and Alexa for certain date periods. This point contradicts Mr G's assertions about why he 'deleted' Alexa's messages. For these reasons, I have some concerns about the credibility of Mr G's testimony on this point.

Fourthly, I can see from Mr G's complaint against Revolut, that he contacted them on 7 November 2023, about the scam on advice from Action Fraud. However, from a WhatsApp message I can see on 11 November 2023, it appears as if Mr G was still prepared to transfer money to Alexa – despite him contacting Revolut four days earlier expressing his concerns.

Ultimately, Mr G made significant cryptocurrency related payments on the advice of a person who had messaged him out of the blue on WhatsApp. An individual whom he had never met in person. Although there are missing messages, it is clear to see that Mr G had fallen for Alexa which resulted in his feelings for her progressing rapidly. The nature of the messages suggest that Mr G thought he was in a romantic relationship – something I have no doubt Alexa manipulated Mr G into thinking so he could make the payments he did. Further, as I am in the 'dark' regarding the period of the missing messages, I cannot safely conclude that an intervention from HSBC would have been successful. For example, given the particular facts of this case, it would not be unreasonable to suggest that Alexa may have 'coached' Mr G on what to say/do had there been any intervention from Revolut.

In my judgment, the above are a combination of persuasive factors. When taken as a whole, they suggest that if HSBC had intervened (see above) in Payment 5: it is likely Mr G would have frustrated this; and would have alleviated any concerns HSBC had. I also find that the result would have likely been the same had there been a human intervention from HSBC (although I do not accept that such an intervention was necessary).

Other payment transactions

I have thought about whether the other payment transactions in this matter should have triggered HSBC's fraud detection systems prompting it to intervene. Having done so, I am not persuaded they should have. However, even if it could be argued otherwise, I repeat the reasons I set out above explaining why an intervention would have likely failed in this matter.

Recovery of funds

As Mr G's payments were made to purchase cryptocurrency – which would have been forwarded on in this form – there would not have been any funds to recover. So, I am satisfied that it is unlikely HSBC could have done anything to recover Mr G's funds.

Further, the service of exchanging Mr G's funds into cryptocurrency was provided by the exchanges. Therefore, I am not satisfied that there was any reasonable prospect of success had HSBC raised a chargeback – under the relevant scheme – on behalf of Mr G.

Conclusion

Taking all the above points together, I do not find that HSBC has done anything wrong in the circumstances of this complaint. Therefore, I will not be directing HSBC to do anything further.

My final decision

For the reasons set out above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 10 March 2025.

Tony Massiah
Ombudsman