

The complaint

Miss K complains that HSBC UK Plc hasn't refunded her after she reported falling victim to a scam.

What happened

The background to this complaint is well-known to both parties and so my summary of events here will be brief.

In January 2023 Miss K was contacted by someone claiming to work for a recruitment company. They offered Miss K an employment opportunity that sounded interesting to her. What Miss K didn't know until later is that she'd actually been contacted by scammers.

Miss K listened to what the job entailed and understood she'd be paid for completing tasks online. She'd have to complete a purchase and provide a review. She'd then be paid for that work and could withdraw her earnings.

But when Miss K started the work, she found she was having to send more and more money and without being able to withdraw what she believed she'd earned. Miss K was panicked by what was happening and wasn't sure what to do. She became desperate and kept sending money, believing she'd be able to get herself out of trouble.

By the time Miss K stopped and reported what had happened to HSBC she'd sent £19,044.50 from her account over the course of a fortnight. She'd also sent around £15,000 from a different account, held with a different firm.

HSBC considered Miss K's scam claim but said it wouldn't refund her loss. Unhappy with its response, Miss K brought her complaint to our service.

One of our investigator's considered what had happened and found HSBC's response to be fair and reasonable. She didn't think it ought to have refunded Miss K. As Miss K disagreed the complaint has been passed to me.

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 Miss K has been the victim of such a cruel scam. It's clear she's lost a significant sum of money here and I don't underestimate the impact these events have had on her. But I'm afraid, having considered everything, I can't say HSBC ought to compensate her for her loss. I'll explain why.

The starting point at law is Miss K is responsible for any payments she makes from her account. This is set out in the Payment Service Regulations (2017) and confirmed in her account terms and conditions. And this position remains the same even where she's been the victim of a scam. Firms like HSBC are required to execute an authorised payment instruction quickly and with minimal friction.

However, taking into account relevant rules, regulations, best practice and industry guidance, it is fair and reasonable to say firms like HSBC ought to monitor accounts and transactions for signs its customer(s) might be at risk of financial harm through fraud. Where such a risk is evident it might be fair and reasonable for warnings to be presented before allowing a payment. In some circumstances, it might be appropriate for a payment instruction to be paused or stopped so it can be questioned with the customer.

Looking at the spending from Miss K's HSBC account toward the scam, I can see there is an argument for it needing to provide warnings and to intervene in the payments. And I know that HSBC did step in to question what was happening. I also know Miss K's other bank stepped in to question payments being made from her account there.

It's in considering these interventions together I come to the finding that Miss K's isn't a complaint I can uphold. It's evident Miss K was given a number of warnings that she might be falling victim to a scam. Her other bank told her so quite explicitly. And Miss K has said herself she knew it was a scam partway through, prior to a significant proportion of the funds leaving her HSBC account. She'd moved funds from her other bank into HSBC because it had flagged such significant concerns about the activity she was engaged in.

With that in mind I can't say that HSBC ought to bear any responsibility for her loss. I know Miss K was desperately trying to recover money already lost, but it's difficult to see what HSBC could have said or done – that Miss K didn't already know or suspect herself – to try and prevent her loss. I'm not persuaded it could have convinced her to stop what she was doing. Even if the funds hadn't been lost from the HSBC account, I consider it more likely than not Miss K would have found another way to move the money to the scammers, given her actions across the two accounts used in the scam.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 21 February 2025.

Ben Murray
Ombudsman