

The complaint

Mr K complains that HSBC UK Bank Plc (HSBC) won't reimburse the funds he lost when he fell victim to a scam.

Mr K is represented in his complaint by a professional third party, but for ease, I will continue to refer to Mr K throughout this complaint.

What happened

Mr K says he came across an advert on a social media site offering him the chance to boost his income by completing daily tasks. Mr K says that an individual reached out to him asking him to make payments to invest so that he could earn more. Mr K used his HSBC bank account to make a total of nine debit card payments to an account held in his own name with Binance, to purchase cryptocurrency which he then sent to the scammer. Mr K says HSBC didn't ask him to authorise the transactions.

Mr K says that losing the money has affected his health and financial wellbeing. He wants HSBC to refund the money he lost on the basis it should have intervened in the transactions which were out of character.

The first table below sets out details of the payments Mr K made to Binance and the second details the payments he received from his account with Binance.

No.	Date	Time	Payee	Amount
1	18/04/2023	12:17:20	Binance	£84.74
2	18/04/2023	13:56:02	Binance	£48.63
3	19/04/2023	10:48:23	Binance	£471.74
4	20/04/2023	11:01:14	Binance	£421.06
5	20/04/2023	11:16:50	Binance	£386.29
6	20/04/2023	11:54:58	Binance	£797.78
7	20/04/2023	12:18:39	Binance	£1006.91
8	20/04/2023	12:25:30	Binance	£1241.83
9	20/04/2023	12:27:04	Binance	£67.13
			Total	£4,526.11

Date	Payer	Amount credited by Binance
18/04/2023	Binance	£169.94
19/04/2023	Binance	£749.60
20/04/2023	Binance	£59.26
	Total	£978.80

Our investigation so far

Our investigator didn't recommend that Mr K's complaint be upheld. He said there was no need for HSBC to intervene when Mr K made transactions 1 – 6 as these took place over three days and only totalled £2,160. When Mr K made payment 7, our investigator thought that HSBC should have intervened. This was because the payment was the fourth that Mr K had made to Binance in under two hours. But as HSBC would have only been expected to provide a tailored cryptocurrency investment warning, our investigator didn't think that it would have alerted Mr K to the risk of job scams. So, our investigator didn't think that a proportionate intervention would have prevented Mr K from making further payments to the scammer. As Mr K received the cryptocurrency he paid for, our investigator didn't think HSBC could have recovered the funds.

Mr K disagrees with the investigation outcome. He says HSBC's systems make it easy for scammers to steal money. Mr K says that when he tried to make the same transfers with other banks, they blocked the transactions, informed him about the risks and prevented transfers to Binance. Mr K says that if HSBC had provided a scam alert, he would not have completed the transactions.

As the complaint was not resolved informally, it has 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.

The type of payments Mr K has complained about aren't covered by the CRM Code as this specifically excludes payments made by debit card. I acknowledge that Mr K didn't intend to send the funds to a scammer but the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make in accordance with the Payment Services Regulations 2017 and the terms and conditions of the customer's account. And I have taken this into account when deciding what is fair and reasonable in this complaint.

But that's not the end of the story. Taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider HSBC should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its' customers were at risk of fraud (among other things). This is

particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.

- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

Mr K made the payments to a well-known, legitimate cryptocurrency exchange (Binance). While there are known fraud risks associated with cryptocurrency, this does not mean that all transactions involving cryptocurrency are related to scams. And HSBC has to strike a balance between allowing customers to use their account and stopping and questioning transactions.

In this case, I need to decide whether HSBC acted fairly and reasonably in its dealings with Mr K when he made the payment requests, or whether it should have done more than it did. I have considered the position carefully.

From looking at the above tables, Mr K made two small card payments to Binance on 18 April 2023. He also received a credit which exceeded the value of the two transactions before making a larger payment on 19 April 2023. Although Mr K continued to make payments, he also received credits to his HSBC account from Binance. And the payments he was making to Binance didn't appear out of character. So, in the context of Mr K's account and HSBC's responsibilities, I don't consider it needed to intervene in payments 1 to 6, as they weren't suspicious.

I want to correct something which our investigator said in his investigation outcome. He said payment 7 was for £1,241.83. But according to HSBC's payment report - payment 7 was for £1,006.91. This doesn't change the outcome of Mr K's complaint – I simply wanted to clarify the order in which the payments were made.

When Mr K sent payment 7 (£1,006.91) to Binance, it was the fourth he had made within a short amount of time on the same day. And the cumulative value of the payments (including payment 7) was over £2,600.

When Mr K attempted to send payment 7, I would have expected HSBC to show him a tailored warning around cryptocurrency investment scams. Such a warning would usually highlight the key features of the scam, for example, by referring to: an advertisement on social media, promoted by a celebrity or public figure; an 'account manager', 'broker' or 'trader' acting on their behalf; the use of remote access software and a small initial deposit which quickly increases in value. I understand HSBC didn't do this, so I've then thought about whether a warning from HSBC would've prevented Mr K from sending this payment.

Having done so, I'm not persuaded that it would have prevented Mr K from losing his funds as he wasn't investing in cryptocurrency. Instead, Mr K understood he was using the cryptocurrency platform to deposit funds into his account to spend with his 'employer.' So, I am not satisfied that the kind of warning I would have expected at the time – referring to the key features that I have outlined above - would have stopped him from going ahead with the payments. The kind of risk HSBC would have been highlighting would not have related to the situation he was in.

Although I accept what Mr K has said about the other banks stepping in when he tried to make the same payments to Binance, this doesn't change the outcome of his complaint against HSBC. I say this as every bank will adopt different policies and limits when it comes to making payments to cryptocurrency exchanges. Just because another bank stopped his

payments, does not mean that HSBC had to follow suit. And if Mr K had already received cryptocurrency investment warnings from other banks before deciding to proceed with the transactions through HSBC –this would reinforce my view that a cryptocurrency investment scam warning from HSBC wouldn't have prevented Mr K's loss from payment 7 onwards. Particularly as I am not saying that a proportionate intervention should have involved HSBC trying to speak with Mr K about payment 7. I would only have expected HSBC to display a cryptocurrency investment warning. So, HSBC did not miss an opportunity to discover that Mr K was being persuaded to use the cryptocurrency funds as part of a job scam.

I appreciate that Mr K thinks that HSBC could have stopped the payments he made to Binance, but it could not. When payments are made by card – as was the case here – the only recovery option HSBC has is to request a chargeback. The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The scheme is subject to limitations and we would only expect a bank such as HSBC to raise a chargeback if there is a reasonable prospect of success.

Mr K didn't make the debit card payments to the scammer direct. Instead, he paid Binance. So, HSBC could have only processed chargeback claims against the merchant Mr K paid. By purchasing cryptocurrency, Binance had provided the service Mr K requested. The fact that the cryptocurrency was later transferred elsewhere to the scammer, didn't give rise to a valid chargeback claim against Binance. So, any chargeback claim would likely have failed.

Overall, whilst I am sorry to hear about this cruel scam, Mr K's loss of money and the impact on his mental health, I can't fairly ask HSBC to reimburse him. And there aren't any ways in which it can recover the funds for him.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 4 April 2025.

Gemma Bowen
Ombudsman