

Complaint

Mr H is unhappy that HSBC UK Bank Plc didn't pay him a refund when he told it he'd fallen victim to an investment scam.

Background

The details of this case are well known to the parties, so I won't set them out in full here. By way of summary, in or around September 2021, Mr H was introduced to what he thought was a legitimate investment opportunity. In reality, he was communicating with a fraudster and had unknowingly become involved in a Ponzi scheme. He made multiple payments from his HSBC account to a cryptocurrency exchange in his name. These deposits were converted into cryptocurrency and subsequently transferred into the fraudster's control.

HSBC didn't agree to uphold his complaint. Mr H wasn't happy with that and so he referred his complaint to this service. It was allocated to an Investigator. In August 2024, the Investigator asked Mr H whether he had received any returns on the investment. He said that he *"did not receive any funds at all."* But there was evidence of multiple credits into his account. The Investigator queried whether these related to the scam and asked whether Mr H had received any incentive to encourage others to invest. Mr H's representatives said he had recommended the scheme to friends and family but *"never got anything in return."* They said he *"never received anything as a direct result of them investing, just a small 'Bonus' once they had engaged."*

On 23 October 2024, the Investigator shared a breakdown of Mr H's outbound and inbound payments, highlighting those that appeared to be related to the scam. She asked the representatives to confirm which payments were linked to the scam and to set out the value of the financial loss they believed Mr H had experienced. The representatives responded on 4 November 2024, but their response didn't address that question.

As a result, on 31 January 2025, the Investigator issued her view. She said that, as things stood, she couldn't fairly conclude that Mr H had suffered a financial loss as a result of participating in the investment. On 10 February 2025, Mr H's representatives responded to say that they disagreed. They provided evidence showing that Mr H had made payments to a fraudulent investment scheme. They didn't, however, account for the inbound payments our Investigator had identified and explain whether they were or weren't connected to the complaint.

As no agreement could be reached, the complaint was passed to me to consider.

Findings

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'm not upholding it. I'll explain why. I'm concerned about the information that has been submitted by Mr H and his representatives. Mr H initially told our Investigator that he hadn't received any funds back and hadn't benefited from referring others to the scheme. This wasn't consistent with the evidence she'd seen, and so she rightly sought clarification. Mr H's representatives provided a vague explanation and then silence, despite several further requests.

Good industry practice at the time did require that HSBC take steps to protect its customers from financial harm due to fraud in certain circumstances. However, I haven't gone on to consider whether HSBC did enough to protect Mr H here, because I don't think there's sufficient evidence he's suffered a financial loss. That being the case, even if I were to agree that HSBC should've done more, there would be no compensation payable.

I say that because, having carefully reviewed the spreadsheet shared with Mr H's representatives in October 2024. It shows both the outgoing payments that funded the scam and multiple incoming payments that appear to be linked. Mr H's representatives haven't questioned the accuracy of this data or convincingly explained why it shouldn't be considered relevant. Taking the figures at face value, it appears that Mr H is better off than he would've been had he not taken part in the scheme.

Final decision

For the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 28 April 2025.

James Kimmitt
Ombudsman