

## Complaint

Ms C is unhappy that HSBC UK Bank Plc didn't refund her after she reported falling victim to a scam.

## Background

In 2021, Ms C was offered an investment opportunity involving the management of her funds by an individual I'll refer to as Mr V. Mr V was presented as a highly skilled forex trader who could generate exceptional returns for investors. The investment had been recommended to Ms C by her then partner, who was also an investor. Another individual (Mr K) appeared to work alongside Mr V to recruit new investors. Mr K was well known to Ms C, because he was her friend's son.

She was told that she could expect a guaranteed return of 10% per month on her investment. To persuade Ms C of the legitimacy of the investment opportunity, she was shown statements of the accounts held by other investors and some examples of the trades that Mr V had placed with an online platform. She used her HSBC account to make the following payments to an account in the name of Mr V.

1	9 June 2021	£25,000
2	19 June 2021	£25,000
3	11 August 2021	£10,000
4	18 August 2021	£15,000

Ms C didn't have direct access to a platform where she could see the value of her investment. The updates were sent in the form of Excel files via WhatsApp. Once she realised that she'd fallen victim to a scam, she notified HSBC. It didn't agree to refund her. It said that she hadn't conducted sufficient independent research before going ahead with the investment. It also noted that, when she was making these payments, she was asked to provide a reason. One of the options was 'investment', but Ms C chose 'other.' That meant that HSBC couldn't provide her with an appropriately tailored warning as part of the payment process.

Ms C wasn't happy with that response and so she referred her complaint to this service. It was looked at by an Investigator who upheld it in full. HSBC disagreed with the Investigator's view and so the complaint has been passed to me.

## Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I issued a provisional decision on this complaint on 14 March 2025. I wrote:

*In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations (in this case, the 2017 regulations) and the terms and*

conditions of the customer's account. However, that isn't the end of the story. Good industry practice also required that HSBC be on the lookout for account activity that was unusual or out of character to the extent that it might have indicated a fraud risk. On spotting such activity, I'd expect it to take steps to warn its customer about the risks of proceeding.

Of course, those requirements are only relevant if Ms C was the victim of a scam. I've considered the available evidence carefully and I'm satisfied that what happened here constitutes an authorised push payment (APP) scam. Ms C isn't the only consumer to have raised concerns about Mr V. In several other cases that have been brought to this service, I have seen evidence showing that Mr V was not using client funds as intended. Instead, it appears he may have been using funds from new investors to pay returns to earlier investors or misappropriating the money for his personal use.

The question I have to consider is whether HSBC should've done more in connection with any of the payments set out in the table above. Overall, I think the first payment was sufficiently unusual and out of character that it ought to have attracted some scrutiny. I say that because the value is relatively high, and it was atypical for Ms C's use of the account. I don't think HSBC should've processed that payment without first contacting her to establish the circumstances.

If it had done so, I think it's more likely than not that she'd have responded to its questions openly. I have taken into account that, when prompted to provide a reason for the payment, she selected an inaccurate one. This meant that the warning that was displayed during the payment process wasn't appropriately tailored to the relevant fraud risk. At the time she reported the fraud to the bank, she said that she doesn't know why she selected that option and can't recall doing so.

It's possible that she selected the wrong option carelessly because she didn't think it was particularly significant or that she was told by Mr V or Mr K to select it so that the payment would go through without fuss. In any case, I think the risk of the first payment was sufficiently clear that displaying a system generated warning wasn't an adequate response in the circumstances. Furthermore, irrespective of her reasons for selecting the payment option she did, the evidence doesn't suggest that she'd been armed with a 'cover story' should the bank question the payments.

I think that, had a conversation taken place between an employee of the bank and Ms C, it's likely that they'd have been able to establish the most relevant facts – i.e. that Ms C was investing her money with a private individual (rather than a company), that individual had no authorisation from the regulator for trading with investor funds and that the returns he was promising to investors (10% a month with no risk to capital) were sufficiently out of line with the rates generally available to retail investors that it ought to have been concerned about the risk of fraud.

It might also have established that, although several investors had told Ms C that they had earned returns, these weren't funds paid into their bank accounts but figures on spreadsheets created by Mr V. It could've warned her to not attach too much weight to that. If it had done so, I'm satisfied that it would've dissuaded her from going ahead with the investment and prevented the losses she went on to suffer.

### Contributory negligence

*I've also considered whether Ms C can be considered partially responsible for her own losses. In doing so, I've considered what the law says about contributory negligence while keeping in mind that I must decide this complaint based on what I consider to be fair and reasonable in all the circumstances.*

*Having done so, I think it's fair and reasonable for Ms C to bear partial responsibility for her own losses. I don't doubt that she sincerely believed this was a legitimate investment opportunity, but I'm not persuaded that belief was a reasonable one. Mr V had promised her returns that were significantly out of line with the typical rates available to retail investors at the time. He'd told Ms C that she could earn 10% per month and that the returns were guaranteed with no risk to investor capital. This was even though he was speculating in foreign exchange, an extremely volatile asset class.*

*It's also significant that, although Ms C says that she was shown returns being earned by other people, these were all in the form of Excel spreadsheets. Based on the information she shared with the bank when she reported the scam, she didn't know of anyone who had been able to withdraw funds from the investment into their own bank account – including her partner, who was the person who had recommended the investment to her.*

*In addition to that, she was putting her money under the control of someone who had zero relevant professional experience. I recognise that Ms C was frustrated at the low returns her money was earning elsewhere and so this opportunity was a tempting one. Nonetheless, I think it ought to have occurred to her that what was on offer was simply too good to be true.*

*This isn't the only complaint that Ms C has made regarding her losses to this scam. The four payments in the table above were sent to an account that Mr V with Bank A. She has also complained about that bank's role as the receiver of her funds. An ombudsman colleague intends to uphold that complaint in part and direct Bank A to pay compensation.*

*In these circumstances, I think a fair and reasonable reduction for Ms C's contributory negligence is 34%. This means that Ms C should receive 66% of her loss. As my colleague is intending to find that Bank A failed in broadly a similar manner to the finding I'm making about HSBC, I think that 66% should be apportioned equally between the banks.*

*In light of this, I intend to direct HSBC to pay Ms C 33% of her loss arising from the payments set out in the table above. As Ms C has been without the use of those funds in the meantime, I also think 8% simple interest should be added to compensate for this. This should be calculated between the date of each payment and the date of settlement.*

HSBC didn't respond to the provisional decision. Ms C's representatives responded to say they disagreed with my recommendation that a deduction should be made from the redress payable. They argued that Ms C did carry out due diligence, engaging in detailed conversations with the scammers in order to understand the investment and assess its legitimacy. They also said she was provided with compelling evidence that other investors had genuinely received returns, and that the fraudsters were highly convincing and presented themselves in a professional manner. Ms C was shown evidence in person of

other investors receiving returns, and her representatives said it would be unfair to hold it against her that she is now unable to provide that same evidence to this service.

I've considered these arguments carefully. My starting point remains that the returns promised – i.e. 10% per month, guaranteed, with no risk to capital – were sufficiently unrealistic that they ought to have been cause for concern. That concern is heightened by the background of Mr V. From everything I've seen, there wasn't really any reason to find him professionally credible. From the information I've seen in this case and others involving the same individual, it appears that he was simply a hobbyist, with no professional experience or recognised expertise. Those two factors together, in my view, ought to have made Ms C pause for thought.

In some cases, other circumstantial factors might reasonably offset those concerns. For example, if someone known personally to Ms C had received actual returns and shared that evidence directly with her, then it might be reasonable for her to attach more weight to that recommendation. But here, I think the combination of highly unrealistic returns and Mr V's lack of professional standing should have prompted Ms C to question the legitimacy of the scheme before proceeding with the investment.

I don't doubt that Ms C was shown materials by Mr V and Mr K that appeared to show successful outcomes, such as spreadsheets demonstrating trading activity or the apparent growth of the fund. I haven't drawn an adverse inference from the fact that Ms C is unable to provide evidence to corroborate that. However, from the way it's been described, the information she saw was marketing material created by the individuals promoting the scheme. That kind of presentation is not the same as personal testimony from a trusted source who has themselves received a return.

The reality here is that Ms C decided to invest on the strength of her partner's recommendation. However, as she later told the bank, her partner hadn't received any returns from the scheme at the time she made her payments. That means she wasn't relying on any concrete evidence of success, but rather on the hope that the scheme would eventually deliver what had been promised. In light of that, I remain of the view that it's fair and reasonable to conclude Ms C ought to bear partial responsibility for her losses along the lines outlined in the provisional decision.

## **Final decision**

For the reasons I've explained above, I uphold this complaint in part.

If Ms C accepts my final decision, HSBC UK Bank Plc needs to:

- Refund 33% of the loss arising from the payments set out in the table above.
- It also needs to add 8% simple interest per annum to those payments calculated to run from the date they left Ms C's account until the date a settlement is paid.

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

James Kimmitt  
**Ombudsman**