

The complaint

Mr O complains that HSBC UK Bank Plc didn't protect him from an investment scam.

Mr O is being supported in making his complaint by a representative. But for ease, I'll only refer to Mr O in this decision.

What happened

Mr O has said that he was introduced by a long-term trusted friend to an investment (in a company I'll refer to here as 'V'). 'V' was operating a multi-level marketing (MLM) investment scheme, whereby investors would purchase different training packages and could earn money by recruiting new investors. Investors were told this wasn't an investment as such – rather they were 'buying financial education'.

Mr O has explained that his friend, who was a member of 'V', had been investing in 'V' for over a year and was able to evidence the profits he'd made. Because of that, Mr O said he didn't carry out his own research into 'V' – instead relying on what his friend was telling him.

Mr O said he was told the investment was "*no risk*" and that for every £1,000 he spent he would get £3,500; and that if he spent £5,000, he would get £35,000 in 60 weeks. He's added that he attended conferences and events where the 'scammers' explained how the investment worked. And he was added to two chat groups with other investors.

Mr O made the following card payments from his HSBC account via his account with a legitimate crypto exchange (which I'll refer to here as 'B').

Date	Amount
12 December 2022	£4,265.12
15 December 2022	£855.42
22 January 2023	£836.43
7 March 2023	£4,330.80
8 March 2023	£4,381.73
15 March 2023	£4,325.61
5 April 2023	£4,156.93
5 April 2023	£4,156.95
Total	£27,308.99

HSBC blocked Mr O's debit card when he attempted to make the 12 December 2022 payment. He spoke to HSBC and was asked to confirm he was making the payment and was provided a warning about safe account scams. HSBC then unblocked Mr O's debit card, and he proceeded with the payment. I've not seen any evidence that HSBC provided any further warnings to Mr O about subsequent payments.

Mr O has explained that he went on to introduce friends to the investment with 'V'; and that he became a mentor. But when he was unable to withdraw the promised returns, he came to the realisation that he'd been the victim of a scam.

On 8 September 2024 Mr O made a complaint to HSBC. In short, he said he'd been the victim of a scam, and that HSBC hadn't done enough to protect him. Mr O therefore held HSBC responsible for his loss. He wanted HSBC to refund him, together with 8% interest and £1,000 for the distress and inconvenience caused.

HSBC didn't think Mr O had been the victim of a scam. It said Mr O had lost money as part of a high-risk investment. It also added that Mr O had made the payments from his HSBC account to an account in his own name ('B') and over which he had control. HSBC also added that neither the Contingent Reimbursement Model (CRM) Code, nor the Visa Chargeback rules applied to Mr O's case.

Mr O referred his complaint to the Financial Ombudsman.

One of our Investigators considered the complaint but didn't uphold it. In short, he recognised that Mr O had been the victim of a scam, and that HSBC should've provided Mr O with tailored written warnings about crypto investment scams in relation to the first and last five payments – given their size and destination.

But given the circumstances of how the investment came about, Mr O's trust in the friend who introduced him to the investment, and because Mr O himself became an introducer and mentor for 'V' – our Investigator didn't believe a tailored warning from HSBC around the risks of crypto investment scams would've resonated enough with Mr O to have prevented his loss.

Our Investigator also found there was no reasonable prospect of HSBC recovering the lost funds, nor did he think there was any basis for HSBC to pay Mr O any compensation.

Mr O didn't agree. In summary, he agreed with our Investigator that HSBC should've provided him with crypto related warnings – given the risks the payments presented. But he thought such warnings from HSBC might've prevented his loss; or at least some of it. Mr O recognised that his trust in the friend who introduced him to 'V' had played a "*significant role*" in his decision to invest. However, he added that:

"HSBC's responsibility extends beyond individual customer trust in third parties".

Mr O added that given the size and destination of the payments, the prevalence of crypto related scams; and risks associated with unregulated MLM investment schemes, HSBC should've been on notice that he was likely at risk of financial harm. And because he wasn't a "*passive investor*", having become involved in promoting and endorsing the investment in 'V' to others, HSBC should

"have been more vigilant in its assessment of the transactions and should have warned [him] about the growing risks".

The complaint has now been referred to me for a final decision.

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.

Having done so, I've decided not to uphold this complaint. I know this is not the answer Mr O was hoping for, and so this will come as a disappointment. I'm really sorry to hear about the situation he's found himself in, and I can understand why he'd want to do all he can to recover the money he lost. But I need to decide whether HSBC can fairly and reasonably be held responsible for Mr O's loss. Overall, I've decided that it can't be. I'll explain why.

But first, I would like to say that I've considered this case on its own merits and have summarised it in far less detail than the parties involved. I want to stress that no discourtesy is intended by this. It's simply because my findings focus on what I consider to be the central

issues in the specific circumstances of this complaint – that being whether HSBC could've prevented Mr O's loss.

It's now accepted that Mr O has likely been the victim of a scam. But I accept the transactions he made towards the investment were authorised payments. So, Mr O is presumed liable for the loss in the first instance.

However, I consider that as a matter of good industry practice at the time (and now) that a bank, such as HSBC, ought to have taken steps to intervene prior to processing a payment instruction where it had grounds to suspect a payment might be connected to a fraud or a scam. Any such intervention should've been in proportion to the level of risk perceived.

Further to that, where there is an interaction between a customer and a bank before a high value payment is processed, as there was here in relation to the 12 December 2022 payment, I'd expect the bank to take reasonable steps to understand more about the circumstances of that payment.

The question then arises whether HSBC ought reasonably to have held such suspicions or concerns in relation to Mr O's payments — and if so, what might've been expected from a proportionate intervention.

So, taking all of this into account, I need to decide if HSBC acted fairly and reasonably in its dealings with Mr O when he made the payments. Specifically, whether it should've done more than it did before processing the payments – and if it had, would that have made a difference. I also need to decide if HSBC could've reasonably recovered the lost funds.

I agree with our Investigator, and with Mr O, that HSBC should've provided him with specific crypto related warnings in relation to the payments over £4,000. And that a tailored written warning about the risks of crypto investment scams was proportionate here in connection to the March and April 2023 payments.

Further to that, HSBC spoke to Mr O about the £4,265.12 payment made on 12 December 2022. So, arguably, HSBC had an opportunity here to question Mr O about that payment. And given its size, the fact it was for the purchase of crypto, and had been attempted three times, which HSBC had itself flagged as suspicious, I think it's fair to say HSBC should've asked Mr O proportionate questions relating to crypto investment scams before processing the £4,265.12 payment.

But for me to find it fair and reasonable that HSBC should refund Mr O's loss requires more than a finding that HSBC ought to have intervened in the payments.

I would need to find not only that HSBC failed to intervene where it ought reasonably to have done so — but crucially, I'd need to find that but for this failure the subsequent loss would've been avoided.

That latter element concerns causation. A proportionate intervention will not always result in the prevention of a payment. And if I find it more likely than not that such a proportionate intervention by HSBC wouldn't have revealed the payments were part of a fraud or scam, then I couldn't fairly hold it liable for not having prevented them from being made.

In thinking about this, I've considered what a proportionate intervention by HSBC at the relevant time would've constituted, and then what I think the result of such an intervention would most likely have been.

To reiterate, HSBC's primary obligation was to carry out Mr O's instructions without delay. It wasn't to concern itself with the wisdom or risks of his payment decisions.

In particular, HSBC didn't have any specific obligation to step in when it received a payment instruction to protect its customers from potentially risky investments. The investment in 'V' wasn't an investment HSBC was recommending or even endorsing.

HSBC's role here was to make the payments that Mr O had told it to make. Mr O had already decided on that investment. And I find that HSBC couldn't have considered the suitability or unsuitability of a third-party investment product without itself assessing Mr O's circumstances, investment needs and financial goals.

Taking such steps to assess suitability without an explicit request from Mr O (which there wasn't here) would've gone far beyond the scope of what I could reasonably expect of HSBC in any proportionate response to a correctly authorised payment instruction from its customers.

That said, I think it would've been proportionate here for HSBC, as a matter of good industry practice, to have taken steps to establish more information about these payments and to have provided Mr O with tailored crypto investment scam warnings.

What matters here is what those steps might be expected to have uncovered at the time. While there may now be significant concerns about the operation of 'V', and the legitimacy of the investment, I must consider what HSBC could reasonably have established during a proportionate enquiry to Mr O about his payments between December 2022 and April 2023. I cannot apply the benefit of hindsight to this finding.

There were some global regulatory warnings about 'V' from September 2022 and Mr O now has obvious concerns about the motives of 'V'. But at the time of making the payments, he thought the investment was entirely legitimate, explicitly saying it was only when withdrawal attempts were delayed from around April/May 2023 that he saw any warnings about 'V'.

I can also see that 'V' had a professional looking website as well as a strong presence on social media, and a YouTube channel explaining the process of investing and withdrawal. In addition to that, Webinars were held frequently, and investors were progressing through the ranks (becoming introducers and mentors, as was the case with Mr O), and they would see profits applied to their 'V' account. This would've all undoubtedly made the investment appear plausible.

Against this background, I've thought about what was most likely to be uncovered if HSBC had questioned Mr O during the 12 December 2022 phone call. Whilst I don't know exactly what HSBC would've asked Mr O and how he would've responded; I'm mindful that the nature of 'V's practices weren't aligned with the common hallmarks of crypto investment scams. There was no traditional third party or broker guiding Mr O, no suggestion of the use of remote access software and no evidence that Mr O was pressured into investing. As I've said above, the scheme was also presented as training as opposed to an 'investment' per se; and the payments were being made to a legitimate payee ('B').

Mr O has also said that he was told to leave his funds invested and there is no evidence to suggest that a fee was needed to make a withdrawal. Mr O has also confirmed that he wasn't at any time told to mislead his bank.

So, considering all these factors, I don't think it's likely, on balance, that HSBC would've been overly concerned by the responses Mr O gave if it had questioned him about the purpose of the £4,265.12 payment. And if HSBC had suggested to Mr O that he carry out checks into 'V' – I think it's likely, on balance, he'd have not done so given he's said he fully trusted his friend. Or if he did carry out checks and saw any negative information (which was available online from 18 November 2022), I think it's likely he'd have still sought reassurance from his friend or from other investors he was in contact with via 'V's chat groups.

Regarding the later payments, I'm not persuaded that tailored written warnings about the risks of crypto investment scams would've resonated with Mr O. Again, the typical hallmarks of a crypto investment scam weren't evident here. And by the time of these payments, Mr O was fully invested. He's told us that he'd introduced friends to the investment and was a mentor for 'V'. I've seen evidence that 'V's mentors, like Mr O, provided support and guidance on promoting 'V' and enlisting new investors. Mentors were also trained to handle

objections by people who alleged 'V' was operating as a pyramid scheme; explaining this was a financial education platform that helps with financial education and for investors to make additional income.

This all suggests to me that Mr O had no concerns about 'V's practices in March/April 2023 and was therefore unlikely to have been swayed by warnings provided by HSBC in relation to the later payments.

In summary, I've considered everything submitted and the arguments made, but while Mr O now has concerns about the legitimacy of 'V', everything I've seen indicates that his concerns only began to surface a while *after* the relevant payments were made, when Mr O was unable to make a withdrawal and started to see some negative reviews about 'V'.

I've thought next about how Mr O found out about the investment. Mr O has said that he was introduced to 'V' by a trusted friend with whom he had a *"prior level of trust and familiarity"*. But that this shouldn't mean HSBC's obligation to protect him is any less. I've thought about this point carefully.

Firstly, if on 12 December 2022 HSBC had asked Mr O who'd advised him about the investment, then the involvement of his friend would've likely come to light at that time. But this type of unregulated investment could be entered into without obtaining regulated financial advice – as seems to have been the case here.

So, the regulatory status of the investment and how Mr O was introduced to it weren't something that would necessarily have indicated 'V' was fraudulent (or that the investment was a scam) at the time Mr O asked HSBC to make the £4,265.12 payment.

Further to that, I've not seen any evidence to suggest Mr O had any doubt in what his friend was telling him. The friend was a member of 'V' and was already investing; and was able to demonstrate to Mr O that he'd received returns. Such was the trust between Mr O and his friend at the time of the first payment, that Mr O admits he didn't carry out any research into 'V' himself, having no doubt in what his friend was telling him. He's specifically said:

"The way he was explaining things to me, I trusted him."

And that his friend:

"advised him to invest without any doubt"

And before deciding to invest, Mr O has said he did question his friend about 'V's legitimacy, to which his friend responded that it was:

"100% real"

I fully appreciate that, with the benefit of hindsight, Mr O has concerns that HSBC's obligations to protect him have been undermined by the trust he had in his friend at the time the £4,265.12 payment was made. But looking at what I think is most likely to have happened at the time, on balance, I maintain that any concerns that HSBC might've raised about 'V' would've likely, in my opinion, have been allayed by Mr O's friend. This is further demonstrated by the fact Mr O's friend was a member and existing investor of 'V' and so, against that backdrop, would've more likely than not been able to defend any allegations about 'V's legitimacy.

To recap, I can only reasonably expect any intervention or enquiries made by HSBC to have been proportionate to the perceived level of risk of 'V' being fraudulent. I don't think that a proportionate enquiry into any of Mr O's payments would've led to either HSBC or Mr O considering 'V' being anything other than legitimate. With that in mind, and all considered, I'm not persuaded that HSBC was at fault for carrying out the relevant payment instructions, or for not preventing Mr O from making his payments.

On a final note, I've also considered whether, on being alerted to the scam, HSBC could reasonably have done anything to recover Mr O's losses, but I don't think it could. The only

possible option for recovery would've been to have attempted a chargeback. But this likely wouldn't have had any reasonable prospect of success given the service was provided – that being the purchase of crypto from 'B' which was then forwarded on to 'V'.

I have a great deal of sympathy for Mr O and the loss he's suffered. But it would only be fair for me to direct HSBC to refund his loss if I thought it was responsible – and I'm not persuaded, in the circumstances of this case, that it was. And so, I'm not going to tell HSBC to do anything further.

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 O to accept or reject my decision **before 9 October 2025**.

Anna Jackson
Ombudsman