

The complaint

Mr S complains that HSBC UK Bank Plc trading as first direct won't refund the money he lost as the result of a scam.

Mr S has been represented in his complaint by a firm of professional representatives.

What happened

The background to this complaint is well known to the parties, so I'll simply summarise it here. Briefly, Mr S says he received a message out of the blue on social media about investing in cryptocurrency. He says he wasn't actively looking to invest, but was open to the idea and decided to give it a try. Unfortunately, he says the person who'd contacted him ultimately turned out to be a scammer. I'll refer to them as "the scammer" in this decision, even though I appreciate that Mr S didn't realise he was dealing with a scammer at the time.

The scammer told Mr S he'd double his money through the investment. Mr S says that on the scammer's instruction he set up a cryptocurrency wallet in his own name. He was able to view his funds online, and saw them increase. He says the scammer then sent him a link which, unknown to Mr S, gave the scammer access to his cryptocurrency account. He says that once he'd clicked on it, the scammer removed the cryptocurrency from Mr S's wallet and deleted the chat he'd had with Mr S.

Mr S made the following payments. I've highlighted the ones that weren't subsequently reversed, and which are the payments that form the subject matter of Mr S's complaint:

	Date	Time	Merchant	Payment/reversal	Amount
1	17.04.24		O	Payment	£200
	18.04.24	20:58	O	Payment	£21,500
	19.04.24			Reversal	-£21,500
	19.04.24	09:48	Y	Payment	£7,000
	19.04.24			Reversal	-£7,000
2	19.04.24	11:43	Y	Payment	£1,000
3	19.04.24	13:24	Y	Payment	£6,999
	19.04.24	20:58	Y	Payment	£4,000
	19.04.24			Reversal	-£4,000
	20.04.24		O	Payment	£13,000
4	22.04.24		E	Payment	£50
	23.04.24			Reversal	-£13,000
5	23.04.24	19:14	Z	Payment	£6,500

6	23.04.24	10:13	Z	Payment	£6,500
				Total loss	£21,249

Mr S has told us he believes that HSBC shouldn't have allowed such large payments to be made in such quick succession. His representatives say that HSBC should have intervened when Mr S made the payment for £6,999, on the grounds that it was out of character. They say HSBC should have asked probing questions, with a view to exposing the scam. They've pointed out that Mr S told HSBC he was buying goods from a friend. But they say that this warranted further questions from HSBC, especially given that the payments were made to cryptocurrency providers. And they say that Mr S didn't have a detailed cover story, so they believe that probing questions from HSBC would have exposed the scam.

One of our investigators considered the complaint, but didn't think it should be upheld. He initially explained that he couldn't be certain that a scam had taken place, but he thought that HSBC had acted fairly in its dealings with Mr S. After Mr S provided further evidence, the investigator issued a further view, focussing on whether HSBC had done enough to protect him from fraud. But he still considered that it had, and commented that even if HSBC had prevented the payments, he thought that Mr S would have found another way of sending his money to the scammers, given his apparent determination.

Mr S didn't agree with the investigator's view, so the complaint's 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've set out the background to this complaint in less detail than the parties and I've done so using my own words. I'm not going to respond to every individual point made by the parties. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. It's just that I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

I was sorry to hear that Mr S fell victim to a scam, and I have sympathy for him. My role here is to decide whether it's fair and reasonable to hold HSBC responsible for his loss.

Mr S has only been able to provide limited evidence to support his version of events. He's explained that this is, in part, because the scammer deleted their chats as soon as he'd taken Mr S's money. Where the evidence is incomplete, inconclusive or contradictory, I make my decision based on the balance of probabilities – in other words what I think it's more likely than not happened, or would have happened, based on the available evidence and surrounding circumstances.

In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations, regulators' rules, guidance, standards and codes of practice and, where appropriate, what I consider to have been good industry practice at the time. Taking those things into account, I think that at the time the payments were made, HSBC should have been doing the following to help protect its customers from the possibility of financial harm:

- monitoring accounts and payments to counter various risks, including fraud and scams;

- keeping 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) – especially given the increase in sophisticated fraud and scams in recent years, with which financial institutions are generally more familiar than the average customer;
- acting to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring that all aspects of its products, including the contractual terms, enabled it to do so;
- in some circumstances, regardless of the payment method used, taking additional steps, or making additional checks, before processing a payment, or, where appropriate, declining to make a payment altogether; and
- being mindful of -among other things – common scam scenarios, how fraudulent practices were evolving (including, for example, the common use of multi-stage fraud by scammers, and the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers when deciding whether to intervene.

However, there's a balance to be struck. Banks have obligations to be alert to fraud and scams and to act in their customers' best interests, but they can't reasonably be involved in every transaction. And I think it was reasonable of HSBC to consider a range of factors when deciding whether to take any additional steps before making the payments.

In this case, throughout the period during which Mr S was making the payments, HSBC repeatedly stopped payments and warned him that it was concerned that he might be falling victim to a scam. So I've thought about whether it did enough, and, if I think it should have done more, whether this would likely have been enough to prevent the scam.

Using the numbering in my table above, I don't think that payments 1 and 2 (the first two payments which weren't reversed) or payment 4 were for high enough amounts, or unusual enough for Mr S's account, that HSBC ought to have been concerned about them. Payment 3 was for £6,999, and it's from this point that Mr S's representatives believe HSBC should have prevented the scam.

I'm not convinced that it should have been apparent to HSBC that payment 3 was being used to buy cryptocurrency. In response to HSBC's questions, Mr S confirmed that he'd made the payment himself, hadn't been guided on how to answer HSBC's questions, or told to mislead it, and hadn't been asked to download any software, share his screen or allow access to his device. He said he owed money to a friend and was paying the friend's company. He said he'd been given the account details in person, and confirmed that the friend hadn't reached out unexpectedly. And he said he'd already sent the friend £1,000 earlier that day and he'd checked that it had arrived safely.

Mr S's representative has commented that Mr S's cover story didn't hold up to scrutiny, but I disagree. Overall, I think that Mr S's explanation for the payment was sufficiently convincing that I don't think it was unreasonable or irresponsible of HSBC to release it. I acknowledge that at one point Mr S said that a payment to Y was for some machinery which he explained was an investment. I don't consider that inconsistent. And I don't think that the fact that Mr S wasn't able to give an immediate, fluent account of what kind of company Y was ought to have been so concerning to HSBC that it should have questioned Mr S further. And while Mr S's representative has commented that Y was dormant, I don't think it was unreasonable of HSBC not to check this, given that Mr S had provided what I consider to have been a credible explanation for the payment. So taking everything into account, I don't think it was unreasonable of HSBC to release payment 3.

HSBC again spoke to Mr S before releasing the final two payments (payments 5 and 6 in the table above). He claimed that he was repaying money that he owed to a friend. He said the friend had given him the account details to send the money to in person. And he confirmed that he'd sent money to the friend before, and it had arrived with no problem. HSBC then warned Mr S about the dangers of scams where the scammer poses as friends or family or gets to know the victim online before asking for money, and said that the scammer might even guide the victim on what to say to the bank. Mr S said that nothing like that had happened.

I acknowledge the warnings HSBC gave Mr S centred largely on "safe account" scams, (where the victim is typically urged to move their money into an account under the fraudster's control, allegedly to keep it safe), and friends and family scams. I can understand why it did so, given Mr S's account of why he was making the payments. But based on what he's told us, those aren't the type of scam Mr S had actually fallen victim to.

I've borne in mind that payments 5 and 6 were to a payee that was identifiable as a cryptocurrency provider. The answers Mr S gave to some of HSBC's questions were designed to conceal what he was doing. He had cover stories, which he's explained the scammer told him to use, to explain the payments. I've listened to recordings of Mr S's calls with HSBC and I think he sounded persuasive and convincing. HSBC mentioned being told to lie to a bank as a common feature of scams on more than one occasion, but Mr S continued to make the payments, and continued to mislead HSBC about the reason.

Nonetheless, I've thought about whether things might have turned out differently if HSBC had given Mr S a warning outlining the common features of cryptocurrency investment scams. I acknowledge that I can't be absolutely sure what he'd have done. But, from the evidence provided, I'm not persuaded, on balance, that it would have led to Mr S stopping making the payments.

A targeted cryptocurrency investment scam might have pointed out that scammers often ask victims to download remote access software, but Mr S has consistently told us that he wasn't asked to do that. And I'm not persuaded, on balance, that if HSBC had told Mr S, for example, that contact out of the blue on social media and the promise of very high returns are common features of cryptocurrency investment scams, this would have resonated enough with him to break the spell, and make him realise the investment was a scam. Investments with those features aren't automatically scams.

HSBC might also have explained that often in cryptocurrency investment scams, the victim is asked to transfer cryptocurrency from their own crypto wallet to another wallet which, unknown to them, is under the scammer's control. It's not easy to be sure of the exact sequence of events without the messages between Mr S and the scammer, which Mr S has been unable to provide. But based on what Mr S has told us, that's not what happened here. He says that the wallet was in his own name, and he was able to view it online. The funds were ultimately extracted from Mr S's cryptocurrency wallet by the scammer after Mr S clicked on a link provided by the scammer, which, unknown to Mr S, gave the scammer access to his wallet. In the circumstances, I think it's unlikely that Mr S would have realised anything was wrong if HSBC had warned him about making payments from his cryptocurrency account, as based on what he's said, he never knowingly did this.

Finally, I've borne in mind that Mr S paid into the scam several times after payments had already been stopped, and after HSBC had told him that it had serious concerns. I think this suggests that he was strongly convinced that the investment was genuine, and that he was determined to make the payments. Overall, taking everything into account, I'm not persuaded that a warning specifically about investment scams would have resonated sufficiently with Mr S to put him off the investment.

I've thought about whether HSBC could have done more to recover Mr S's money. Here, based on what Mr S has told us, the money was paid to cryptocurrency providers to buy genuine cryptocurrency. So he effectively got what he paid for. HSBC did, nonetheless, contact the platforms that Mr S sent the money to, to see whether any money could be recovered, but it was unsuccessful.

I acknowledge that this case is finely balanced, and necessarily involves some degree of speculation. But having thought very carefully about all the evidence and arguments provided by both parties, I'm not satisfied, on balance, that it would be fair to hold HSBC responsible for Mr S's loss.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 17 December 2025.

Juliet Collins

Ombudsman