

The complaint

Mrs D complains that HSBC UK Plc won't refund money she lost when she was the victim of a job scam.

Mrs D is represented by a firm that I'll refer to as 'R'.

What happened

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

In 2023 Mrs D fell victim to a job scam. Mrs D has explained that she was recruited by the scam employer – that I'll refer to as 'G' – on an instant messenger app. The job involved completing sets of tasks to promote merchant's product data – which required Mrs D to pay money to promote the products (although she understood it would be returned, along with her earnings). To do this, Mrs D had to purchase crypto and forward it to G's platform.

Despite completing the sets of tasks, Mrs D was unable to withdraw her funds as G told her she had to pay fees to do so. Even though Mrs D paid them, G continued demanding more fees. Mrs D couldn't afford to pay it and realised she had been scammed.

Mrs D made just under 20 payments from her HSBC account as part of the scam between 10 October and 17 December 2023. These ranged in value between about £2,000 and £12,000. Some of the payments went to an account held in Mrs D's own name with an electronic money institution (EMI) – which I'll refer to as 'W' – before being used to purchase crypto. Other payments were made to a crypto provider (including via a money remittance provider).

Mrs D complained to HSBC with the assistance of two professional representatives – with the latter being R. R complained to HSBC, on Mrs D's behalf, on 27 June 2024. They didn't think HSBC did enough to protect Mrs D from the scam – and so, they requested a full refund, 8% simple interest and a compensation award.

HSBC didn't refund Mrs D. The complaint was referred to the Financial Ombudsman, but our Investigator didn't think HSBC was responsible for Mrs D's loss. He said HSBC did question Mrs D about some of the payments, but she misled them and didn't provide the true reasons for making them. This was despite Mrs D demonstrating, in her 'scam chat' with G, that she had concerns about the job being a scam. So, even though Mrs D seemingly had concerns about the legitimacy of the job from the outset she proceeded to follow G's instructions and withheld the surrounding circumstances of the payments from HSBC. Our Investigator also noted that Mrs D provided inaccurate information to W when processing payments from that account too. Because of this, our Investigator didn't think HSBC could, even through further interventions, have uncovered the scam.

R disagreed. In short, they've said:

- Banks need to ask open questions and hold their customer's answers up to a level of

scrutiny. Here, HSBC's level of intervention was insufficient. For example, on calls that were only a few days apart, Mrs D gave contradictory information – in one call she said her account with W had been open for six to seven months, whereas on the subsequent call, she said three to four weeks. These inconsistencies should've been of concern to HSBC and prompted further questioning.

- After these interventions, Mrs D started sending larger amounts to crypto providers which indicated a higher risk. Yet HSBC didn't intervene further.
- HSBC should've questioned Mrs D in branch and enacted banking protocol – particularly as she gave vague payment reasons and different answers to questions between calls. If this had happened, the scam would've been uncovered as Mrs D was unable to answer HSBC's questions confidently.
- They didn't think it was fair to place too much weight on colloquialisms such as Mrs D's reference to the job being a scam in her conversation with G. They don't agree this to mean Mrs D knew it was a scam, but she was angry for being asked to make further deposits before she could receive her money back.
- Mrs D has severe mental health vulnerabilities and was clearly in distress during the calls. And, in line with the FCA's Consumer Duty, firms should take reasonable steps to assess if a customer is potentially vulnerable. Here, HSBC should've noted Mrs D's distressed state and considered pausing the payment until they could be sure she wasn't being pressured to make the payments.
- They reject the premise that the onus is solely on the consumer to reveal information that is relevant and critical while assessing fraud risks. Banks are expected to ask the right questions and use their professional judgement when conducting fraud interventions.
- Mrs D wouldn't have been able to provide an elaborate cover story if probed and her answers scrutinised to an appropriate level.
- HSBC had a responsibility to take a stronger course of action with a view towards breaking the spell of the scammer. They failed to do this by not acting on the information available to them.

The matter 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.

I'm sorry that Mrs D has been the victim of a scam. I understand this has impacted her greatly, and so I'm sympathetic to her situation. I therefore want to reassure Mrs D that I haven't made this decision lightly. But I must consider whether HSBC is responsible for the loss she's suffered. Having done so, and while I realise this isn't the outcome Mrs D is hoping for, for similar reasons as our Investigator, I don't think they are. Because of this, I don't think HSBC acted unfairly by not refunding the payments. I'll explain why.

Before I do, I want to reassure Mrs D that I've considered everything R has submitted on her behalf. And so, while I've summarised this complaint in far less detail than what has been provided, I want to stress that no discourtesy is intended by this. If there is a submission I've not addressed; it isn't because I have ignored the point. It's simply because my findings

focus on what I consider to be the central issue in this complaint – that being whether HSBC is responsible for the loss Mrs D has suffered.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. Here, it isn't disputed that Mrs D knowingly made the payments and so, I'm satisfied she authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of the account(s), HSBC are expected to process Mrs D's payments, and she is presumed liable for the loss in the first instance.

However, taking into account the regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for HSBC to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

Here, HSBC did speak with Mrs D on several occasions in respect of some of the payments she was making to her W account – specifically, of note, on 13 and 15 October 2023. Although there was a payment made prior to 13 October 2023, I don't think this was unusual or suspicious enough to have given HSBC reason to think Mrs D might be at risk of financial harm. I've therefore considered whether HSBC's interactions on 13 and 15 October 2023 were sufficient and proportionate to the risk presented by the payments.

Having listened to these calls, I'd have to firstly disagree with R's view that Mrs D sounded in distress. Instead, while frustrated by the inconvenience of the security checks and being probed about the purpose of the payments, Mrs D spoke confidently and clearly. And there didn't appear to be any misunderstanding in the calls that HSBC were carrying out the additional checks before processing the payments to protect her from the risk of falling victim to a scam. Despite this, Mrs D concealed the true purpose of the payments she was making and gave inaccurate information. For example, Mrs D:

- Stated she was making the payment on 13 October 2023 for a family matter that was very personal. She felt the payment had nothing to do with the bank but confirmed nobody had asked her to send the payment (or do anything). And that she'd opened the account with W six to seven months ago (without any third party involved).
- Stated she was making the payment on 15 October 2023 for holiday savings. She confirmed nobody had asked her to make the payment for a different purpose, or hide this from her bank, and that she had opened the account herself about three weeks ago. Mrs D was similarly unhappy about being questioned about the payment as she insisted nobody else had anything to do with it.

Prior to both conversations with HSBC, in Mrs D's conversation with G, she referenced the job being a scam on several occasions – for example, she said: *"Because I feel like I'm playing [sic] into a scam"* and *"...this is nothing but a scam"*. While I've considered R's view that it wouldn't be fair to place too much weight on this, I think it is of relevance here. This is because, while Mrs D might not have known with absolute certainty it was scam, she very clearly, and at the very least, had concerns about the legitimacy of what she was being told. And so, considering these concerns, I think it would've been reasonable for Mrs D to have been open to the additional checks HSBC were carrying out to protect her from such a scam. Instead, Mrs D seemed uncooperative, and she provided HSBC with inaccurate information. In doing so, this hindered HSBC's ability to prevent the scam – as they were unable to assess the true risks of the payments Mrs D was making.

On more than one occasion Mrs D denied any third-party involvement – including the opening of the Wise account and that she hadn't followed any instruction to make the payments. Nor had she been told to hide the purpose of the payment. And so, while I

appreciate that the reason she gave for the 13 October 2023 payment – a personal family matter - was somewhat vague, I think the explanation she gave HSBC would've reassured them that she wasn't at risk of financial harm from fraud, particularly as the payments were being sent to another account with a FCA regulated EMI.

At which point, I'm aware that there was an inconsistency in the answers Mrs D provided in the two calls in respect of how long she'd held her account with W. And R is right in that HSBC should hold customer's answers up to a reasonable level of scrutiny, and probe further where appropriate. In this situation however, Mrs D spoke with different HSBC agents on the two calls. And it would've been difficult for the second agent to have known that Mrs D had given differing information in the prior call – as they didn't have the benefit of listening to it beforehand, nor did HSBC's notes record Mrs D's specific response to this line of questioning. At which point, I should note that I wouldn't reasonably expect HSBC to record every single response provided by their customer – as I don't think it would be practical, nor do I think it would be proportionate in regards to the bank's requirement to balance the need to protect their customers from financial harm and avoid imposing unnecessary friction relative to the level of risk identified.

Because of this, I don't think HSBC missed an obvious opportunity to uncover the scam. But rather, based on the responses Mrs D provided, I think they would've been of the belief that Mrs D was making the payments for legitimate purposes. I therefore don't think it would've been reasonable or proportionate to the risks the payments presented at the time for HSBC to have directed Mrs D to branch for further questioning. Nor do I think HSBC ought to have enacted Banking Protocol in these circumstances.

Following these interventions, Mrs D proceeded to make further payments from her HSBC account to the scam. These were made to a crypto provider rather than to her W account. And based on the payment activity, and the destination of the payments, I consider HSBC ought reasonably to have undertaken further checks before processing some of the transactions. However, even if HSBC had done this, I'm not persuaded this would've made a difference.

Mrs D had misled HSBC and given them inaccurate information previously. I'm also aware that she also provided inaccurate information to W about the purpose of the payments she made from that account as part of the scam too. And so, while I accept Mrs D couldn't reasonably rely on providing the same reasons for making these payments (as, for example, holiday savings wouldn't have been a plausible response for a crypto payment), I think it's more likely than not that Mrs D would've sought to withhold the true reason for making the payments. And I'm not convinced by R's argument that Mrs D wouldn't have been able to provide an elaborate enough cover story. I think it would've been relatively easy for Mrs D to continue to conceal the involvement of a third party, as she had already done. So, I think HSBC would've likely felt reassured by this and that Mrs D was making the payments for legitimate crypto purposes.

I understand R has referenced that Mrs D suffers from mental health vulnerabilities. But it seems that HSBC weren't aware of this at the time, nor would I reasonably have expected them to have suspected such vulnerabilities from their conversations with Mrs D. It follows that, for the reasons I've explained, I don't think HSBC is responsible for the loss Mrs D suffered.

I've considered whether, on being alerted to the scam, HSBC could reasonably have done anything more to recover Mrs D's losses, but I don't think they could. The payments went to Mrs D's account with W, whereby she used them to purchase crypto. And so, there wouldn't have been any funds to recover. But even if there was, Mrs D would've had access to them. And the only option available to recover the debit card payments was via chargeback. But

this wouldn't have been successful as Mrs D received the service paid for – that being the deposit of funds into the account/wallet.

I have a great deal of sympathy for Mrs D and the loss she's suffered. But it would only be fair for me to direct HSBC to refund her loss if I thought they were responsible – and I'm not persuaded that this was the case. For the above reasons, I think HSBC has acted fairly and so I'm not going to tell them to do anything further.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 24 September 2025.

Daniel O'Dell
Ombudsman