

### **The complaint**

Mrs G and Mr G complain about the actions of HSBC UK Bank Plc when they lost money to a scam.

Mrs G and Mr G are being represented by a legal representative but, for ease, I'll only refer to Mrs G below.

### **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Around early May 2023 Mrs G was contacted on her phone by a merchant (scammer) claiming to be in possession of \$50,000 from an investment she made in crypto a few years before. Mrs G believed the scammer was trying to help her retrieve this money. She received a link to a genuine crypto exchange where she was told to send money to by the scammer. She started sending money to the scammer via a crypto exchange from a bank account she held with a bank - I'll refer to here as D. After Mrs G started making payments D told her that it thought she was likely being scammed. But Mrs G continued to send payments from her HSBC account. Direct payments to the crypto exchange were blocked by HSBC so Mrs G then made payments to a newly opened account (at the scammers instructions) with an Electronic Money Institute – I'll refer to here as W. From W, Mrs G then made the payments to the crypto exchange with the scammers help.

Mrs G made payments totalling around £107,100 to W between 26 May 2023 and 30 August 2023. Mrs G realised she had been scammed when she ran out of funds and lost contact with the scammers. So, she made a complaint to HSBC who said it wouldn't be refunding her money. Unhappy with that response she brought her complaint to this service.

Our Investigator didn't think the complaint should be upheld. She said that although HSBC could've stopped more of the payments, she didn't think this would've made a difference here.

Mrs G disagreed and asked for an Ombudsman's review. She said that HSBC should've done more to stop this scam when she spoke with it on the phone. She said it also should've done more to stop the payments to W.

### **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'm not going to uphold the complaint. I'm sorry to hear that Mrs G has been the victim of a cruel scam. I know she feels strongly about this complaint, and this will come as a disappointment to her, so I'll explain why.

I've read and considered the whole file. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

Where the evidence is incomplete, inconclusive, or contradictory (as it is here), I have to make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

It is common ground that Mrs G authorised the scam payments of around £107,100. I accept that these were authorised exchanges of her money into crypto even though Mrs G was the victim of a scam. So, although it wasn't her intention to send her crypto to the scammers, under the Payment Services Regulations 2017 (PSRs) and the terms of her account, Mrs G is presumed liable for the loss of her money when she exchanged it into crypto in the first instance.

However, taking into account the law, 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 in order to help protect customers from the possibility of financial harm from fraud.

HSBC's first obligation is to follow the instructions that Mrs G provides. But if those instructions are sufficiently unusual or uncharacteristic for the account, I'd expect HSBC to intervene and to ask their customer more about the intended transaction before processing it. I'd also expect HSBC to provide suitable warnings about common scams to help their customers make an informed decision as to whether to continue with the payment. There might also be cases where it's appropriate for HSBC to refuse to follow the instruction if there are good grounds to believe it is being made as a result of a fraud or scam.

HSBC stopped the direct payments to the crypto exchange which I think was a reasonable thing to do. They also told Mrs G they thought it was a scam (which Mrs G confirms in the scam messages with the scammer). But even though I'm persuaded HSBC could've stopped more of the payments to W, I don't think this would've more likely than not deterred Mrs G from making the payments here.

Throughout the scam payments Mrs G received a clear warning from D about crypto recovery scams. But this was ignored because the scammers had such a hold of Mrs G with the promise of the \$50,000 they held for her, that she was willing to say and do anything so that she could make the payments to the scam.

The scam messages show Mrs G allowing the scammer access to her device to help her make payments via screen sharing software. HSBC stopped the payments to the crypto exchange telling her it also thought she was being scammed with D giving a very clear warning about crypto recovery scams. So, I don't agree with Mrs G here that any further action from HSBC would've made a difference. She has shown that she was willing to ignore clear interventions and warnings from both HSBC and D within a short space of time. When HSBC did ask Mrs G to go to branch after the first payment to the crypto exchange was blocked, she said she was abroad (she appears to have been abroad throughout the scam) supporting her family and couldn't come back. But even if HSBC had arranged a further call and provided further scam warnings and education to Mrs G while she was abroad, I don't think this would've made a difference. Nor do I think HSBC contacting Mr G would've likely stopped the payments from being made here. Mrs G showed an unwillingness to engage with bank warnings and having her payments blocked. And when payments were blocked and warnings provided, she found other means to transfer her

money to the scam – as she did in late August when she used an account in her husband's name with W and when she opened another account with another high-street bank.

Mrs G has said that her husband called HSBC during the scam (she's been unable to give a rough date of this call) and that HSBC could've done more to tell him about the scam and the payments leaving the account. Our Investigator said that if Mr G was concerned then why didn't he try and stop her from making the payments.

Overall, I don't think it's likely Mr G did make a call to HSBC to try and find out what was happening here. Even if he did, I don't think Mrs G would've stopped making the payments. Like our Investigator, I think it's more likely he was aware of what was going on here because otherwise he would've done more to stop the payments being made if he wasn't aware of what Mrs G was doing.

The scam messages also suggest that it's more likely than not Mr G had reasonable knowledge of what was happening here. Mrs G references on 24 May 2023 that her husband and the bank (D) had told her to stop communicating with the scammer. But from the later messages in August 2023 (after the last payment from HSBC to W), I'm satisfied he must have been aware of Mrs G continuing to make payments as Mrs G was using an account with W in his name to try and continue making payments to the scam (despite a clear previous warning from D to not pay scammers asking for money to pay the recovery of crypto). Mrs G says W are running checks on her husband's account and that he will be back in thirty minutes before asking the scammer if she should ask him to call W. She then says in the same chat that her husband was on the phone to W.

The scam messages also continue up until December 2023 which is a few months after Mrs G had her payments with D, W and HSBC declined and had been told this was a scam. As a result, I don't think there was anything further HSBC could've reasonably done to uncover and persuade Mrs G to stop sending money to the scammers here.

### **Recovery**

HSBC wouldn't have been able to recover the money Mrs G sent to W, as she has confirmed this was sent to the scammers. HSBC did send an e-mail to W but it confirmed that no funds remained.

I've considered the points Mrs G has made about her vulnerabilities and personal circumstances around the time she was scammed. But, although Mrs G does have my sympathies for what she was going through at the time, HSBC wasn't reasonably aware of these issues. So, I can't now ask it to reconsider the payments based upon information it wasn't aware of at the time.

I appreciate this will come as a disappointment to Mrs G, and I'm sorry to hear that she has been the victim of a cruel scam. As a result, I'm not persuaded that HSBC can fairly or reasonably be held liable for her loss in these circumstances.

### **My final decision**

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G and Mr G to accept or reject my decision before 19 January 2026.

Mark Dobson

## **Ombudsman**