

## **The complaint**

Mr R complains HSBC UK Bank Plc (HSBC) won't refund the money he lost to a scam.

## **What happened**

In 2023, Mr R was approached via instant messaging app by an individual claiming to offer financial advice in relation to cryptocurrency trading, promoting an investment platform. He was persuaded it seemed legitimate, so decided to invest. Unfortunately, it appears the person who contacted Mr R was a scammer, who was promoting a fake platform.

Between April and June 2023, Mr R made payments of almost £250,000 from HSBC to two recipients – which he has explained were for investments/cryptocurrency purchases which he sent on to the scam.

HSBC blocked several scam payments in order to speak to Mr R about them. He has explained he was coached by the scammer – with whom he had built up trust through regular calls, and believed he was in a romantic relationship with – on what to say in order to get HSBC to remove the blocks.

After being repeatedly asked for fees without receiving anything in return, Mr R realised he had been scammed. In July 2023, Mr R complained to HSBC, via a professional representative, that it should have done more to protect him when he made the payments. When HSBC didn't refund him, he referred the matter on to our service.

Our investigator didn't uphold Mr R's complaint. On listening to the calls between Mr R and HSBC about the scam payments it blocked, she wasn't persuaded it was at fault for not uncovering the scam at the time. She noted he hadn't been honest with HSBC about what he was doing – such as claiming he had been investing with the company for several years.

Mr R has appealed the investigator's outcome. In summary, he says:

- He trusted the advisor deeply, so believed what she told him about the investment and followed her instructions on what to tell the bank;
- The payments were very uncharacteristic for him, and cryptocurrency transactions are high risk;
- HSBC should have systems in place to monitor and respond to suspicious transactions. It failed to comply with its obligations.

## **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 reached the same conclusions as the investigator. I'm not persuaded it would be fair to hold HSBC liable for Mr R's loss. I'll explain why.

Banks have a contractual duty to make payments in compliance with customers' instructions. But taking into account longstanding regulatory expectations and good practice, I think HSBC should fairly and reasonably have been on the look-out for the possibility of fraud or scams and have taken additional steps, or made additional checks, before processing payments in some circumstances – as in practice all banks, including HSBC, do.

There is a point I'd like to note about the two recipients Mr R paid. He has said he was purchasing cryptocurrency/investing funds to *then* send on to the scam platform. I can see one of the recipients was a cryptocurrency wallet. The other is an authorised payment institution who provides payment services to several cryptocurrency merchants.

It doesn't appear to be in dispute that Mr R was transferring money into accounts he held initially, rather than sending the funds directly to the fraudster. But by the time of these payments, cryptocurrency scams had risen greatly in frequency, including multi-stage scams. It's reasonable to conclude HSBC had time to digest these warnings and put mechanisms in place to detect and prevent this type of fraud.

Here, it's clear HSBC did have such mechanisms in place – as it spoke to Mr R on multiple occasions about the scam payments he made. The key question, therefore, is whether it ought to have realised he was being scammed – and if so, whether it would have succeeded in dissuading him from proceeding.

I agree with our investigator Mr R wasn't forthcoming about what he was doing in response to HSBC's questioning. He told it he was investing with a company he had been dealing with for over two years – whereas from what he has told us, he had only been dealing with them for a month or so. The (claimed) length of his relationship with the company would have made the investment sound less risky.

Mr R claimed he had received returns – which wasn't correct – and that he had checked the company was regulated. He also said he had received documentation from them and had done his research into them. Again, all of that will have made the investment sound less risky. HSBC also asked Mr R if he had received any financial advice and he said he hadn't. But in his submissions to us, he says he was getting financial advice from the individual who approached him.

At one point, HSBC went as far as to tell Mr R it had scam concerns based on the beneficiary he was paying. He maintained he wasn't being scammed, was dealing with a company he trusted and had dealt with for several years, and wanted to proceed.

I appreciate Mr R has lost a large amount to a cruel and sophisticated scam, and understand why he therefore feels strongly about pursuing this matter. Especially because I do think HSBC could have done more here, such as intervening further with later payments or probing further. But looking at the questions it did ask, and the warnings it gave, I'm not persuaded that would have succeeded in dissuading Mr R from proceeding.

While I understand Mr R was coached, his responses made the scam risk less apparent to HSBC. And even in the face of relevant, stark scam warnings, Mr R made it clear to HSBC he wanted to proceed. I therefore don't consider it fair to direct HSBC to refund Mr R. That's because I'm not persuaded its actions (or inactions) caused the loss he is claiming for.

## **My final decision**

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or

reject my decision before 12 June 2024.

Rachel Loughlin  
**Ombudsman**