

## **The complaint**

Mr and Mrs J complain that HSBC UK Bank Plc (“HSBC”) won’t refund £2,574 they lost to an investment scam beginning in February 2023.

As the complaint has mainly been brought by Mr J, and for ease of reference, I will refer only to him as the complainant throughout this decision.

The details of this complaint are well known to both parties, so I won’t repeat everything again here. Instead, I’ll focus on giving the reasons for my 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 agree with the conclusions reached by the investigator for the following reasons.

- It isn’t in dispute that Mr J authorised the disputed payments he made to Revolut, Coinbase and OKCoin using his HSBC debit card (where his funds were subsequently transferred on to the scammers from those accounts). The payments were requested using his legitimate security credentials provided by HSBC, and the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.
- However, I’ve considered whether HSBC should have done more to prevent Mr J from falling victim to the scam, as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular payment. For example, if it was particularly out of character.
- I appreciate that overall, Mr J has lost over £2,500. But this amount wasn’t paid in one large or ‘out of character’ transaction. It was spread over five separate smaller increments over the space of ten days, and from two accounts. In my judgment, this payments activity would not have appeared particularly unusual or out of character when compared with Mr J’s spending history, such that the card payments ought to have been regarded as suspicious or indicating that he might have been at risk of falling victim to a scam. The payments were not of such an amount, for example, that they would represent a heightened risk of financial harm.
- I appreciate Mr J disagrees and considers HSBC should be intervening on smaller payments such as the ones he made. But it’s neither practical nor reasonable to expect a bank to stop every payment to ensure it’s going to a legitimate merchant, as the entire banking system would grind to a halt and the vast majority of legitimate payments would be significantly delayed. The fact that he made the payments in the early hours of the morning is also not enough to warrant an intervention by HSBC either. It’s entirely plausible that an account holder would, on occasion, make payments late at night. And there’s nothing to suggest that this is more indicative of a scam taking place either, as

many scams happen during the middle of the day.

- So, having considered the payments Mr J made from his HSBC accounts, I'm not persuaded there was anything that ought reasonably to have triggered the bank's fraud monitoring systems, or that would have reasonably indicated he was in the process of being scammed. It therefore follows that I do not think HSBC can fairly be held liable to refund the money he lost.
- I note that HSBC originally failed to consider Mr J's claim as fraud and instead treated it as a chargeback dispute. It has since investigated the fraud claim, but I acknowledge the delay would have been frustrating for Mr J. However, HSBC has offered £100 compensation in recognition of the poor service it provided in this respect, which I'm satisfied is a fair amount of compensation for the distress and inconvenience caused.

I appreciate this will likely come as a disappointment to Mr J, and I'm sorry to hear he has been the victim of a cruel scam. However, in the circumstances, I do not consider it would be fair and reasonable to hold HSBC liable for his loss.

### **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 Mr and Mrs J to accept or reject my decision before 18 January 2024.

Jack Ferris  
**Ombudsman**