

The complaint

Mr L complains that HSBC UK Bank Plc ("HSBC") won't refund over £38,000 he lost to an investment scam.

The details of this complaint are well known to both parties, so I won't repeat everything again here. Instead, I will 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 L authorised the disputed payments he made to his Binance and Coinjar wallets from his HSBC account (where his funds were subsequently transferred on to the scammers). 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 L 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 transfer. For example, if it was particularly out of character.
- It's common ground that some of the payments were considered as 'higher risk' by HSBC, such as the £2,350 payment made on 12 April 2021 that triggered a written fraud warning, for example. An SMS message was also sent in relation to the £2,961 payment made on 6 July 2021 asking Mr L to confirm it was genuine, which he did. I appreciate Mr L considers that HSBC ought to have gone further than simply providing written fraud warnings and asking him to confirm the payments were genuine. But having considered all the disputed transactions against his account history, I'm not persuaded they would have appeared particularly unusual or out of character, such that they would have reasonably required a *human intervention* from HSBC.
- I can see, for example, that Mr L had made similar large payments from his account in the months prior to the scam, such as a payment for over £6,000 on 28 February 2021. I appreciate that the largest payment he made as part of the scam was for £7,350. But I don't consider this to have been *significantly* larger than payments made from the account before, such that it ought to have been regarded as suspicious or indicating that he might have been at risk of falling victim to a scam. There also weren't any other significant indicators of financial harm with regards to these payments. They were not being made to the same payee in quick succession for example, or going to directly to a merchant with a live FCA warning. As a result, I'm satisfied that the fraud warnings and SMS messages HSBC sent were proportionate to the risk presented in these

circumstances, and I don't think it can fairly be held liable for Mr L's loss for failing to intervene and question him further about the payments.

- I've also thought about whether HSBC could have done more to recover the funds after Mr L reported the fraud. However, in this instance we know the funds were swiftly moved out of the crypto wallets and on to the scammer, so there would have been no prospect of HSBC recovering any of the money from the beneficiary accounts Mr L paid.
- HSBC are also under no obligation to refund the faster payments to Mr L under the Contingent Reimbursement Model (CRM) Code either, as the Code only applies to transfers made to another person. In this instance, the payments were made to crypto wallets in Mr L's own name (i.e. not to another person), so the CRM Code would not apply to these transactions.

I appreciate this will likely come as a disappointment to Mr L, 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 L to accept or reject my decision before 6 December 2023.

Jack Ferris
Ombudsman