

The complaint

Mrs A complains that HSBC UK Bank Plc (“HSBC”) have failed to refund money that she lost as part of an investment scam.

What happened

Mrs A saw an advert on a social media platform about an investment firm that I will call B.

From what I can see, Mrs A made a number of payments to Moonpay (a crypto exchange) totalling over £2,000. The funds were used to purchase crypto and were then sent on to B.

Mrs A wanted to withdraw the “profits” she could see in the information that B had provided her with, but she was told that she was unable to do so without paying a number of fees. At this point Mrs A realised that she had been scammed.

Mrs A raised a complaint with HSBC as she believed that HSBC should have stopped her from making the payments in question. HSBC declined to refund the transactions but did offer Mrs A £100 to reflect its delays in its complaint process.

One of our investigators looked into this matter they decided that the transactions were not sufficiently out of character to warrant an intervention by HSBC and that there was no other means of HSBC recovering the funds.

Mrs A did not agree with this and therefore her complaint was passed to me to issue a final 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 Mrs A authorised the payments she made from her HSBC account (where her funds were subsequently transferred on to the scammers). The transactions were requested by her using her 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 Mrs A 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. However, having taken Mrs A’s account activity, I do not think the payments she is disputing should have been regarded as particularly unusual.

Overall, the over £2,000 that Mrs A transferred to Moonpay and ultimately then paid to B was a significant amount of money compared to Mrs A's usual transactions. But importantly the payments were not sent in one transaction. They were broken up into smaller transactions, which were not of such a large amount that it would represent a significant deviation from what would be considered as 'usual' activity for Mrs A's account.

So, having considered the payments Mrs A made, I'm not persuaded there was anything that ought reasonably to have triggered HSBC's fraud monitoring systems, or that would have indicated she was in the process of being scammed. I therefore do not consider there to have been any obligation on HSBC to have intervened any further.

I've also thought about whether HSBC did enough to attempt to recover the money Mrs A sent to Moonpay. But in this instance as the payments were made via debit card the only recourse to recover the funds would be to initiate a chargeback. But in this case, a chargeback would not have been successful, as the transactions Mrs A used her debit card for was to pay Moonpay for the purchase of cryptocurrency, which she duly received.

It was only when the cryptocurrency was transferred from her crypto wallet to B did the loss then occur. So, she could not claim that she did not receive the goods or services paid for from her HSBC account, which was the purchase of the cryptocurrency. As a result, I don't think HSBC has acted unreasonably by failing to pursue a chargeback claim here.

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

HSBC has already made an offer to pay £100 in relation to delays in its complaint handling process. As complaint handling in itself is not a regulated activity I can't comment on this. Mrs A should contact HSBC directly if she now wishes to accept this.

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 A to accept or reject my decision before 28 November 2023.

Charlie Newton
Ombudsman