

The complaint

Miss R via a representative complains that HSBC UK Bank Plc ("HSBC") have failed to refund the money she lost as part of an investment scam.

What happened

The details of this complaint are well known to both parties, so I will not repeat everything again here. Instead, I will focus on giving the reasons for my decision.

In summary though Miss R found an advert on a well-known social media site for a trading company that I will call B. Miss R signed up online and received a call from B. B then persuaded Miss R to send funds to a crypto exchange via debit card and faster payments these funds were then used to purchase crypto and were then sent on to B. The payments made were as follows;

Transaction Number	Date	Type of Payment	Amount
1	24 August 2022	Transfer	£250
2	24 August 2022	Transfer	£3,000
3	26 August 2022	Faster Payment	£2
4	29 August 2022	Transfer In	£82
5	31 August 2022	Transfer In	£83.88
6	2 September 2022	Transfer In	£10
7	5 September 2022	Debit Card payment	£1,000
8	27 October 2022	Transfer In	£983.29
9	1 November 2022	Faster payment	£7,700
10	1 November 2022	Faster payment	£4,700
11	3 November 2022	Faster payment	£2,000

When Miss R attempted to withdraw the profit that she could see on B but she was told that she had to pay additional fees. At this point Miss R realised that she had been scammed.

Miss R asked HSBC to refund these payments as she believes HSBC should have done more to prevent her from being scammed. HSBC did not agree with this.

One of investigators looked into this matter and he thought that whilst HSBC did call Miss R during the transactions being made it should have asked more questions than it did. That said he did not think that this would've prevented the scam from continuing.

Miss R did not agree with this and therefore her complaint has been passed to me to issue a 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 Miss R authorised the disputed payments she made from her HSBC account. The payments were requested by her using her legitimate security credentials provided by HSBC, and the starting position is that HSBC 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 Miss R from falling victim to the scam, as there are some situations in which it should reasonably have had a closer look at the circumstances surrounding a particular transaction. For example, if it was particularly out of character.

I agree with the investigator that HSBC should have intervened during the transactions and asked Miss R a number of questions about the payments that she was making. I note that Miss R was asked general questions about the payments she was making but I don't think that these questions went far enough. For example, she was not asked if she was acting on the advice of a third party or if she had installed remote access software. But I also don't think that had HSBC asked more probing questions it would have stopped the scam. I say this because I can see on Miss R's other case that she was asked questions about the payments to the crypto exchange and she did not answer these questions correctly about what was actually happening.

She was asked if she was investing on advice from a third-party Miss R said she was not. Miss R was asked if she had installed remote access software again Miss R said that she had not. So, I think that HSBC intervened during any point of the scam, I think it unlikely, albeit on balance that Miss R would've answered the questions in a way that would have made HSBC aware that she was being scammed.

I also don't think that a general warning about the dangers of investing in crypto would have altered her decision to go ahead with the scam. I note that Miss R's representative has highlighted an e-mail between Miss R and the scammer that showed that Miss R had doubts as to the transactions she was making. But given she had a conversation with HSBC only a few days after this and she did not mention any of her concerns despite being asked if she was happy to proceed this to me, suggests any concerns she did have were resolved relatively quickly.

I also note that she had by this point managed to make a withdrawal of almost £1,000 from her "investment" so I think this is probably why she wanted to proceed further. So overall whilst I think that HSBC should have intervened more strongly than it did, I don't think this would have stopped the scam from carrying on.

I've also thought about whether HSBC could have done more to recover the funds after Miss R reported the fraud, but in this instance for the debit card payments a chargeback would not have been successful as she received the crypto she had paid for.

HSBC are also under no obligation to refund the money to Miss R under the Contingent Reimbursement Model (CRM) Code either, as the Code does not apply to transfers which the payer has effectively made to themselves.

I appreciate this will likely come as a disappointment to Miss R, and I'm sorry to hear she have 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.

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 Miss R to accept or reject my decision before 7 February 2024.

Charlie Newton
Ombudsman