

## **The complaint**

Mr S complains that HSBC UK Bank Plc didn't do enough to protect him against losing money to a scam.

## **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here. Mr S says that in 2022 he was the victim of an investment scam.

He says as a result of this he paid money from his HSBC account to accounts he held with 'I' and 'C'. I are another bank and C are a cryptocurrency provider. From those accounts, I understand the money was then moved on and lost to the scam.

The payments relevant to this complaint took place between September and November 2022 and Mr S says they totalled £26,000. There were multiple payments, the largest of which was for £11,000 on 31 October 2022. When he realised he'd likely been the victim of a scam, Mr S reported this to HSBC. HSBC declined to offer a refund saying that the payments had all gone to accounts in Mr S' own name and that he was in control of. Mr S complained and when HSBC maintained their position, the matter was referred to our service.

One of our Investigators didn't recommend that the complaint should be upheld. In summary he didn't think the payments were so unusual that HSBC ought to have done more before following the instructions Mr S provided. Mr S disagrees and believes HSBC have breached their duty of care to him. He would like at least a partial refund of his loss and has asked for an Ombudsman to review his complaint.

## **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 outcome as our Investigator and for largely the same reasons. I know this will be disappointing for Mr S, so I'll explain why.

Mr S has made some detailed submissions highlighting why he thinks HSBC should have done more. I've read and considered all of these, but I don't intend to respond in similar detail. This isn't intended as a discourtesy and is just a reflection of the informal nature of our service.

Mr S has mentioned the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code). This is a voluntary scheme through which victims of authorised push payment fraud can sometimes receive redress from the banks involved. But the CRM code only applies to payments that go to another person. And as the payments made as part of

the scam all went to accounts in Mr S' own name, I can't say HSBC acted unfairly by not considering his claim under the CRM code.

HSBC's first obligation is to execute the payment instructions provided by Mr S without undue delay. But Mr S is correct to point out that HSBC reasonably ought to try to protect him from financial harm due to fraud. And there is a balance to be struck between stopping and checking payments which represent an increased risk of the potential of a fraud or scam and not unduly interfering in valid payment instructions.

I've looked at the statements for Mr S' account for the months prior to the payments in question. It wasn't uncommon for him to make payments of multiple thousands of pounds. Some examples of these include a payment for £15,000 in June 2022 and two payments each for £10,000 in September 2022 (which also went to I).

Mr S has argued that payments going to cryptocurrency, should have been a sufficient cause for concern such that HSBC ought to have done more. I've considered this and I agree that the untraceable nature of cryptocurrency means it does commonly feature in scams. However, whilst I acknowledge it wasn't for a significant sum, the evidence indicates Mr S had paid his account with C previously (in May 2022), so it wasn't a new payee at the time of the payments made as a result of the scam. I don't agree that HSBC ought to have stopped and questioned all payments going to cryptocurrency. There still has to be a level of proportionality and balance as to what can reasonably be expected. And whilst in 2022 the fact that payments were to cryptocurrency should have been one of the factors considered, it isn't, on its own, enough to mean I think the payments should have been blocked at the time.

Even taking into account that most of the payments were to C, overall, in the context of Mr S' previous account usage and activity, I don't think the payments made towards the scam (either individually or collectively) were so unusual, suspicious or indicative of potential fraud such that HSBC should have done more than they did before processing them. And for completeness, as the accounts paid were Mr S', I don't think HSBC missed an opportunity to recover the funds.

I'd also like to note that even if HSBC had blocked the payments at the time, it wouldn't automatically mean that I'd direct them to be refunded. I'd still need to consider whether HSBC asking questions and providing warnings would have resulted in Mr S discovering the scam and deciding not to continue making payments. There is some evidence that HSBC provided an online warning for at least one of the payments. But as I don't think HSBC reasonably ought to have done more than they did at the time, this isn't something I need to make a finding on.

I'm sorry Mr S lost so much money to cruel scammers and to hear of the impact this has had on him. But as I can't fairly say that this is something HSBC are responsible for, there isn't a reasonable basis upon which I can require them to do more to resolve this complaint.

### **My final decision**

For the reasons outlined above, my final decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 6 December 2023.

Richard Annandale  
**Ombudsman**