

The complaint

Mr W complains that HSBC UK Bank Plc ("HSBC") won't refund £63,000 he lost to two investment scams between April and July 2020.

What happened

The details of this complaint are well known to both parties, so I won't repeat everything again here. In brief summary, Mr W fell victim to an investment scam in April 2020 after seeing an online advert for an investment broker ("S"). He was encouraged to invest and between 17 April 2020 and 19 May 2020, he made payments totalling £38,000 from his HSBC account to his Coinbase wallet, where his funds were subsequently transferred on to the scammer's wallet.

During this time, Mr W was informed of another investment by a friend who was making good returns. Due to the success Mr W thought he'd had investing through S, Mr W decided to also invest with another company ("R"), as he wanted to diversify his portfolio. This too was unfortunately a scam investment, and between 26 June 2020 and 3 July 2020, he made payments totalling £25,000. Again, these payments were made from his HSBC account to his Coinbase wallet, where the funds were sent on to the scammer.

Mr W realised he had been scammed by both companies when he was unable to withdraw the profits he'd made. Mr W reported the scam to HSBC, but it refused to refund the money he'd lost as it said he'd authorised the payments. Unhappy with this, he referred the matter to our service.

Our investigator didn't uphold Mr W's complaint. He didn't think any of the payments would have appeared overly unusual in light of Mr W's previous spending. He also noted that Mr W had funded part of the fraudulent investment with loans taken out with different banks, including HSBC. Mr W initially said he'd told the bank the reason for the loans was to clear some short-term debt and make further investments. However, HSBC explained that this was not true, as Mr W said the reason he'd given for the borrowing was to fund home improvements; he did not specify that it was to fund an investment.

As a result, the investigator didn't think the bank would've uncovered the scam even if it had intervened, as he thought it was likely Mr W would've misled the bank, as he had done so with the loan application. Mr W disagreed, so the matter has been escalated to me to determine.

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 and have decided not to uphold it. I'll explain why.

It isn't in dispute that Mr W authorised the disputed payments he made to his Coinbase

wallet from his HSBC account (where his funds were subsequently transferred on to the scammers from his crypto wallet). 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 W 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, I'm not persuaded any of the payments ought reasonably to have triggered an intervention from HSBC. The largest payment Mr W made as part of the scam was for £8,000, by which point Coinbase had become an established payee on the account. I can also see he'd made previous legitimate faster payments from his account for £3,500 on 30 August 2019 and had also made a cheque payment for £8,500 on 6 August 2019. So, I don't think any of the smaller earlier payments would have appeared unusual either. The payments were all spaced out as well, with no two payments being made on the same day. As a result, I'm not persuaded any of the payments he made as part of either scam were significantly unusual enough to have warranted further questioning from HSBC.

Even if HSBC should have questioned Mr W about any of the payments, I'm not entirely persuaded he would have been honest. This is because he went on to mislead the bank in order to obtain loans to fund the investment, at the instruction of the scammer. So, given he was willing to give false information to the bank to receive funding for the loan, it seems likely he would have followed any further instructions from the scammer to mislead the bank if questioned about the purpose of the payments. In any event, this is a moot point given I'm not persuaded there was enough reasonable cause for HSBC to be concerned about any of the payments.

Overall, having considered the payments Mr W made to his Coinbase wallet, I'm not persuaded there was anything that ought reasonably to have triggered HSBC's fraud monitoring systems, or that would have indicated he was at risk of financial harm in these circumstances. It follows that I do not think the bank can fairly be held liable for the money he has lost.

I've also considered whether HSBC could have anything more to recover the payments after Mr W reported the scam. But given the payments were made to his own account with Coinbase before being transferred on to the scammer, there would have been little prospects of HSBC being able to recover any funds from the beneficiary account.

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 W to accept or reject my decision before 16 January 2024.

Jack Ferris
Ombudsman