

The complaint

Ms C complains that HSBC UK Bank Plc (“HSBC”) won’t refund over £133,000 she 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 Ms C authorised the disputed payments she made to her Coinbase wallet from her HSBC account (where her funds were subsequently transferred on to the scammer). The payments 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 Ms C 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 isn’t in dispute that some of the payments Ms C made were unusual given they did trigger the bank’s fraud prevention systems and were automatically blocked pending further enquiry – such as the £3,000 payment she made to Coinbase on 7 April 2022. Accordingly, it’s just a question of whether the bank went far enough in all the circumstances with its intervention.
- When HSBC spoke to Ms C on 7 April 2022, it established that she was sending money to Coinbase in order to invest. She said that no one had helped set her account up and that she had done everything herself. She also said that nobody had advised her to move her funds to a different account, nobody had told her to lie to the bank, and said she was investing as she knew a few friends who were doing the same thing. In light of the answers Ms C gave, I don’t think HSBC had great cause to suspect that she was falling victim to a scam, although having heard the questions HSBC asked, I accept that it could have gone further in its questioning. But even accepting this as the case, I’m not persuaded that any such further questioning or scam warning would have ultimately uncovered the scam or prevented Ms C from making the payments.
- I say this because HSBC did warn Ms C about the risks of cryptocurrency scams. She asked whether Coinbase was trustworthy, and the HSBC representative said that it was not, as it was extremely susceptible to scams and he had seen many instances of people falling victim to a scam through Coinbase. He asked her to consult her friends, but Ms C

said she was transferring money to herself and was happy to proceed with the payment. Ms C said she had previously carried out her own research, and had also been introduced to the investment through a friend. She hadn't been cold called or approached out of the blue (which is often the case with cryptocurrency scams). Ms C said the scammer had not asked her to transfer him any money and said he had no access to her Coinbase account. So, there would've been less cause to suspect she was being scammed in these circumstances, as it didn't bear many of the hallmarks that are often associated with cryptocurrency scams.

- The scam Ms C fell victim to was sophisticated and quite different to common cryptocurrency scams. She was not sending cryptocurrency from her Coinbase wallet to another individual's wallet, for example, and was instead paying it into a mining pool. As a result, even if HSBC could have asked more probing questions and given further warnings about cryptocurrency scams, I'm not persuaded this would have likely led Ms C to realise she was falling victim to scam or ultimately prevented her loss. And with this being the case, I'm not persuaded that any further interventions for subsequent payments made to Coinbase would have likely prevented the scam either.
- I've also considered whether HSBC did enough to try and recover the funds from the receiving account after the fraud was reported. However, given we know the money was transferred out of Ms C's Coinbase account, there would have been no prospect of HSBC recovering any money. HSBC are also under no obligation to refund the money to Ms C 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 Ms C's own account, so the CRM Code would not apply.

I appreciate this will likely come as a disappointment to Ms C, 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.

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 Ms C to accept or reject my decision before 1 November 2023.

Jack Ferris
Ombudsman