

The complaint

Mr W complains that HSBC UK Bank Plc (“HSBC”) didn’t do enough to protect him when he fell victim to a scam and won’t reimburse the money he lost.

What happened

The details of this complaint are well known to both parties, so I won’t repeat them again here. Instead, I’ll 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, while I’m sorry that Mr W has been the victim of a cruel scam, I agree with the overall conclusions reached by the investigator for the following reasons:

- It’s not in dispute that the funds were ultimately lost to a scam. It’s also not in dispute that Mr W authorised the payments from his HSBC account, through a combination of debit card and faster payments, albeit not realising he was being scammed. So, the starting position – in line with the Payment Services Regulations 2017 – is that he’s liable for the transactions.
- But there are some situations where we believe that banks – taking into account relevant law, regulations and good industry practice – ought to have identified a fraud risk, so should have looked at the wider circumstances surrounding the transaction before processing a payment. If HSBC failed to do so, and that failure led to a fraudulent loss, it *might* be fair to hold it liable.
- I’ve considered whether HSBC ought to have made additional checks on the disputed payments. And I don’t think it ought to have. Part of the reason I say this is based on who most of the payments were going to. Mr W made these payments expecting them to ultimately reach a company I’ll call ‘N’. I note there’s a warning on the Financial Conduct Authority (“FCA”) register about N, but this warning was added in January 2023 – which is some time *after* the disputed payments were made. And, crucially, the payments weren’t made to N as far as HSBC would have been aware – most were being made by faster payment to Mr W’s own account with a legitimate cryptocurrency exchange.
- The remaining payments were being made to merchants which also didn’t (and don’t) have warnings on the FCA register or the International Organisation of Securities Commissions (“IOSCO”). So, I don’t think HSBC ought to have intervened based on any warnings about the recipient of the funds.
- I’m also not persuaded HSBC ought to have intervened when I consider the payment amounts. I don’t consider the payments to have been particularly unusual or out of character. In total, Mr W made payments totalling just over £3,300 across a period of

approximately two weeks, with the lowest payment being around £208 and the highest being £1,000.

- I wouldn't expect the lower of these payments to have flagged as they simply weren't high enough to look unusual. And, while I note Mr W's spending on the account wasn't typically very high, I don't consider even the highest payment (of £1,000) to be significant enough in value to have triggered HSBC's fraud alert systems. And, by the time this payment was made, Mr W had already made multiple payments to the company – a legitimate cryptocurrency exchange platform – across the aforementioned two-week period. So, I'm not persuaded HSBC ought to have been alert to a possible risk of fraud or a scam given the circumstances involved in this particular case. And I therefore wouldn't have expected it to intervene.
- I've thought about whether HSBC could reasonably have done more to help Mr W to recover the funds once it was made aware of the scam. But the majority of the payments were made to a cryptocurrency account in Mr W's name and, seemingly, control before being transferred on to the scammer. By the time this was reported to HSBC, it's unlikely any of the funds would have remained (as, if they did, Mr W likely could have removed them himself), though I note HSBC did approach the beneficiary bank anyway. And the payments made by card were unlikely to lead to a successful chargeback on the basis of a lack of evidence to satisfy the chargeback and the time frames involved. So, I don't think HSBC could reasonably have done more to recover the funds.
- For the sake of completeness, I note that almost £900 was recovered but this was after all the payments had been made so doesn't impact what I've outlined above – it simply means the overall loss here is slightly lower, totalling around £2,400.

While I'm sorry about Mr W's loss, based on the circumstances of this case, I don't think it was caused by a failing of HSBC's part.

My final decision

For the reasons given above, I don't uphold this complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 5 October 2023.

Melanie Roberts
Ombudsman