

The complaint

Miss E complains HSBC Bank UK PLC didn't do enough to prevent her losing money as part of a scam and didn't act fairly when it refused to refund her losses.

What happened

Miss E, who is represented by a claims management company, has an account with HSBC and accounts elsewhere including an offset mortgage account which allows her to borrow money.

Miss E's representative says Miss E saw an advert on social media about making money through investing and trading in cryptocurrency. Miss E's representative says she researched the company offering the opportunity to make money and decided she wanted to invest having seen only positive reviews. So, she created an account on a cryptocurrency trading platform and began investing in June 2021 making payments from one of her accounts elsewhere. Miss E's representative says Miss E saw her investment was making a profit – and that this built up her confidence.

In October 2021 Miss E's representative says Miss E decided to make payments from her HSBC account having been told that she'd need to do so in order to further her profits. Her representative says she made a payment of £100 from her HSBC account on 4 October 2021 followed by a £2,000 payment the same day. HSBC says it blocked the second payment because it had security concerns having given her a written warning in relation to the first payment. Miss E called HSBC to ask why her payment had been blocked and following the call allowed the payment to go ahead. Miss E's representative says Miss E made a further four payments between 4 and 12 October 2021 taking the total she sent to £5,000. Miss E's representative says Miss E subsequently realised she'd been scammed when she ran out of funds to invest and was told she couldn't make a withdrawal until she'd reached a certain goal.

Miss E complained to HSBC in April 2023 saying that it should have done more to protect her from the scam.

HSBC looked into Miss E's complaint and said that it couldn't assist her as the payments had gone to an account in her own name. Miss E's representative complained to HSBC saying that its response was inadequate. HSBC again said it couldn't help. So, Miss E's representative complained to our service.

One of our investigators looked into Miss E's complaint and said that HSBC should have asked Miss E more probing questions when she called to get her payment unblocked and that HSBC could also have given her a better written warning. They thought HSBC had missed two opportunities to prevent Miss E's losses. In the circumstances, our investigator thought that HSBC should refund all of the payments had made and pay 8% simple interest from the date of the payments until the date of settlement.

Miss E's representatives accepted our investigator's recommendations. HSBC didn't, saying that it felt its interventions had been adequate and that even if it had asked more probing

questions that Miss E would have proceeded regardless. In other words, HSBC didn't agree that it could have prevented Miss E's losses.

HSBC asked for this complaint to be referred to an ombudsman. So, it was passed to me.

Last month I issued a provisional decision in which I said that I agreed that HSBC could have asked more probing questions. I also said that I agreed with HSBC that more probing questions wouldn't have made a difference. That's because I was satisfied that Miss E believed she was making a genuine investment – she'd been investing in digital currency since June 2021 making payments from an account she held elsewhere – and that she was able to spot and avoid scams. So, I said I was not minded to uphold this complaint.

Both parties were invited to respond to my provisional decision – only Miss E's representatives did. They said that had HSBC asked more probing questions, it would have identified the fact that the payments being made were out of character for Miss E and had the hallmarks of a scam. And that HSBC would have been able to halt the payments.

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.

Before I say what I think, in light of the comments I've received from Miss E's representatives, I think it would be helpful to set out what I said in my provisional decision. In it I said:

"I've listened to the call Miss E made to HSBC to find out why a £2,000 payment she'd tried to make on 4 October 2021 had been blocked. It's clear from the outset that Miss E is annoyed that her payment had been blocked – and that it had been flagged as a potentially unauthorised payment. Miss E says – when she's asked what the payment is for – that it's a payment that she wants to make to a company. She then adds that she doesn't know why she has to be asked questions because she wants to make the payment and it's her money. The agent explains that HSBC wants to make sure everything is OK before a payment goes through where it looks suspicious because there's a lot of fraud around. Miss E says that it's not a fraudulent payment, that she's trying to transfer money into an account she's set up in her own name, that she'd transferred £100 into the account earlier that morning to make sure everything was OK and now wants to transfer £2,000 into the account. Miss E also says she's transferring money to a bank when asked. At that point, the agent places Miss E on hold to check the payee details and having done so returns to the call to check Miss E is wanting to make a payment to a digital currency exchange and trading platform. Miss E confirms that she does, and that she's investing the money in digital currency. The agent then asks how she got information about the investment and Miss E says a friend told them about the company and that she's also done her checks. Miss E also tells HSBC that her friend has been investing in the company for a year. The agent ultimately releases the payment.

I agree with our investigator that HSBC could have asked more probing questions. For example, I agree that HSBC could and should have asked more about why Miss E had decided to invest in cryptocurrency – had it done so it would have probably discovered that Miss E had decided to do so having seen an advert on social media and having seen endorsements from high profile figures and celebrities. HSBC instead spent time making sure that Miss E hadn't received any suspicious calls or emails before deciding to make the payment. However, I'm not satisfied that it would have made a difference if HSBC had asked more probing questions as I'm satisfied that Miss E believed she

was making a genuine investment – she'd been investing in digital currency since June 2021 making payments from an account she held elsewhere – and that she was able to spot and avoid scams. In the call she says, for example, that she ignores emails that appear to come from a couple of well-known companies as she knows they're really bad for fraud. In the circumstances, I'm minded to say that this complaint shouldn't be upheld as I think Miss E would have gone ahead with the payments she made even if HSBC had asked more probing questions. In other words, I don't think HSBC could have prevented Miss E's losses."

I remain of the view that HSBC could and should have asked more about why Miss E had decided to invest in cryptocurrency. And I accept what Miss E's representatives have said, namely that probing questions would have revealed hallmarks of a scam. I effectively said that in my provisional decision already – in particular when I referred to the fact that HSBC would probably have discovered that Miss E had decided to invest in cryptocurrency having seen an advert on social media and having seen endorsements from high profile figures and celebrities. I do, however, remain of the view that this would not have made a difference, as Miss E had been investing in cryptocurrency since June 2021 already and had, by this stage, clearly come to the conclusion that she wasn't being scammed. And I can't say in this case that it would have been appropriate for HSBC to refuse to make the payments. So, I remain of the view that this complaint shouldn't be upheld because I remain of the view that more probing questions wouldn't have made a difference.

In my provisional decision I mentioned a call that took place on 19 October 2021 and additional payments Miss E made from her account – between 19 and 25 October 2021 – totalling £45,000. I asked Miss E's representatives for more information about these payments, noting that as far as I could see they've never been part of this complaint. In response to my provisional decision Miss E's representatives have confirmed that they've brought another complaint to us about another business in relation to those payments. In the circumstances, I'm not going to say anything further about those payments.

My final decision

My final decision is that I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 1 February 2024.

Nicolas Atkinson
Ombudsman