

The complaint

Mr C complains that HSBC UK Bank Plc won't refund over £6,000 he lost to an investment scam beginning in October 2022.

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 Mr C authorised the disputed payments he made to his crypto wallet using his HSBC debit card (where his funds were subsequently transferred on to the scammer 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 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.
- I appreciate that overall, Mr C has lost over £6,000, and that this isn't an insignificant amount of money. But this amount wasn't paid in one large or 'out of character' transaction. It was spread over 12 separate smaller increments which, in my judgment, would not have appeared particularly unusual or out of character when compared with Mr C's spending history.
- The payments were spread out over the space of two months, and the largest payment Mr C made as part of the scam was for just over £2,000. So, I'm not persuaded the transactions ought to have been regarded as suspicious or indicating that he might have been at risk of financial harm. Therefore, I'm not persuaded there was anything that ought reasonably to have triggered HSBC's fraud monitoring systems in these circumstances, or that would have indicated Mr C might have been in the process of being scammed.
- I appreciate Mr C disagrees with this, and I note he has referenced the Contingent Reimbursement Model (CRM Code) in his submissions as to why he thinks HSBC should refund the money he's lost. However, the Code only applies to authorised push payments made to another person. It does not cover debit card payments, and neither would it cover payments going to Mr C's own crypto wallet either, even if they were push payments.

- I've also thought about whether HSBC could have done more to recover the funds after Mr C reported the fraud, as in some circumstances the money can be recovered via the bank raising a chargeback dispute. However, in these circumstances, Mr C used his debit card to pay a legitimate crypto-exchange platform before the funds were subsequently transferred on to the scammer. So, he'd have little prospect of making a successful chargeback claim in these circumstances because the merchant he paid would've provided the asset as intended (i.e. the purchase of cryptocurrency). Therefore, I do not think HSBC ought to have pursued a chargeback for the payments Mr C made either.

I appreciate this will likely come as a disappointment to Mr C, and I'm sorry to hear he has been the victim of a cruel scam. However, in the circumstances, I do not consider it would be fair and reasonable to hold HSBC liable for his loss.

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 C to accept or reject my decision before 4 April 2024.

Jack Ferris
Ombudsman