

The complaint

Mr M complains HSBC UK Bank Plc didn't do enough to protect him when he fell victim to an investment scam.

What happened

Mr M has an account with HSBC with a debit card.

In February 2023 Mr M's representatives complained to us that Mr M had been the victim of an authorised push payment scam as a result of which he'd lost £84,255. His representatives listed payments he'd made in March and April 2021, a payment he made in July 2021 and a payment he made in April 2022. They said Mr M had been looking online into cryptocurrency trading and had received a call from a broker. They said Mr M had checked the company involved online, the reviews about them were positive and that its website appeared to be professional and to work well. They said the broker Mr M spoke to helped him set up cryptocurrency wallets into which the payments were made and that they'd done this after he'd downloaded software allowing them to remotely access his computer. They said Mr M couldn't access the wallets without the help of the broker, and that it was only after he realised he'd been scammed that he obtained control of them. They said that Mr M realised he'd been scammed when he kept on being asked for money in order to make a withdrawal at which point he looked online again and found reviews from other people saying they'd been scammed by the same broker. They said Mr M took out two loans to help fund his investments – including to make money out of what Mr M says was a cryptocurrency IPO.

Following our involvement our investigator contacted HSBC to check which payments Mr M had complained about as HSBC's final response only referred to £52,000's worth of payments all in April 2021. HSBC confirmed that Mr M hadn't complained about any other payments but was ultimately happy for us to look into all £84,255's worth of payments that Mr M had complained about. HSBC did, however, question the idea that all of these payments were part of the same scam given the gap between them and questioned whether they related to a scam given the lack of evidence showing Mr M had made a loss.

Our investigator ultimately upheld Mr M's complaint in part saying that HSBC should refund 50% of the payments Mr M had made between 16 and 20 April 2021. In other words, 50% of £50,000. HSBC didn't agree with our investigator's recommendation saying that there was no evidence that he'd been scammed and that even if it had intervened it's likely Mr M wouldn't have been honest about what he was doing. Mr M's complaint was, as a result, referred to an ombudsman for a decision and passed to me.

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.

In this case Mr M's representatives have sent us very limited evidence that Mr M has been scammed and how the alleged scam happened. I agree, however, with our investigator that

they've sent enough evidence to show that Mr M made payments to a trading platform which appears to have been a scam. And that there's enough evidence to say that the payments Mr M made in March and April 2021 were lost due to a scam. I also agree that the evidence for the later payments isn't enough to conclude that they were part of the same scam or a scam at all. So, I agree with our investigator that it wouldn't be fair to require HSBC to refund any of those later payments as Mr M hasn't demonstrated that he's made as loss as a result of making those payments. In this case, in addition to agreeing that the payments Mr M made in March and April 2021 were lost due to a scam, it would only be fair and reasonable to require a refund from HSBC if, amongst other things, the payments in question were sufficiently unusual to justify intervention. So, I'm going to consider that next.

I'm satisfied that Mr M made seven payments in March and April 2021 that they're complaining about. The first two payments were for just over £1,000 to buy cryptocurrency. Neither of these payments were, in my view, sufficiently large to be considered as unusual by HSBC. The third payment was for £5,175. I can see that Mr M was making a number of other payments to several different trading platforms at this time – he appears to start investing in March 2021. He'd also made large payments in the past. I agree, therefore, with our investigator that this payment wasn't sufficiently large or out of character to have been of concern to HSBC. I do, however, agree that the £25,000 payment he made to a well-known cryptocurrency exchange on 16 April 2021 was sufficiently large and out of character to have warranted intervention from HSBC. I should add that two days before that payment went out Mr M had received £50,000 from two different businesses – the proceeds of two loans he'd taken out for "home improvements" – which helped fund the £25,000 and two more subsequent payments for £20,000 and £5,000. I can see that a fraud warning popped up before Mr M was able to send the £25,000, but in this case I agree that HSBC should have intervened and questioned Mr M about the payment he was making.

Had HSBC intervened and questioned Mr M about the £25,000 payment he was making, I'm satisfied that a number of red flags would have been identified and that the scam would, as a result, have come to light. I'm satisfied that those red flags are also a good reason – given that there was also information in the public domain when Mr M first started making the payments he did that the trading platform he was investing in was a scam – to share liability in this case.

Putting things right

In order to put things right, HSBC should refund 50% of the payments Mr M made towards this scam between 16 and 20 April 2021. In other words, 50% of £50,000.

My final decision

My final decision is that I'm upholding this complaint and require HSBC UK Bank Plc to refund 50% of the payments Mr M made towards this scam between 16 and 20 April 2021. In other words, 50% of £50,000. In addition, I require HSBC UK Bank Plc to pay 8% simple interest on the refunds from the date of payment until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 9 April 2024.

Nicolas Atkinson
Ombudsman