

## The complaint

Miss C complains that HSBC UK Bank Plc ('HSBC') won't refund the money she lost after falling victim to a scam.

## What happened

In October 2023, Miss C was contacted via a social media app. The person who contacted her said she could make extra money by Forex Trading – I'll refer to this individual as T. T got Miss C to download an app and said they opened a trading account for her with a company I'll refer to as F.

Miss C used the app she downloaded to purchase bitcoin, which she then sent to a cryptocurrency wallet provided by T. Miss C made two bitcoin purchases using her debit card for £91.37 and £480.51, followed by two international bank transfers totalling £1,500.

Miss C says that she could see the invested funds on her trading account and that she was starting to make a profit straight away. But her account suddenly locked and she was told that in order to access her account, she had to upgrade it, which would cost her more money. Miss C asked to withdraw her funds and when she couldn't, contacted HSBC to raise a fraud claim. This was done the same day that she made the scam payments and cryptocurrency purchases.

When Miss C called HSBC she was told that the fraud team phone line was closed and she would have to call back the next day at 8am – which she did and raised a fraud claim.

HSBC considered Miss C's fraud claim but declined to refund her. HSBC say Miss C authorised the two card payments, and that they followed her payment instructions in relation to the international transfers. HSBC told Miss C they had contacted the beneficiary bank for the international transfers to try and recover her funds but were waiting for a response.

Miss C raised a complaint with HSBC, unhappy with their decision not to refund her. Also, complaining that had she been able to talk to the fraud team when she initially called, HSBC could've recovered her money.

HSBC responded to Miss C's complaint and explained they couldn't raise a chargeback for the card payments as Miss C got the service she paid for. But HSBC accepted that Miss C hadn't received the level of service she should've in raising her fraud claim and paid her £50 in compensation. Ultimately, the beneficiary bank responded, and no funds were recovered.

Miss C wasn't happy with HSBC's response, so she brought a complaint to our service.

An investigator looked into Miss C's complaint but didn't uphold it. The investigator didn't feel HSBC should've intervened before following Miss C's payment instructions in relation to the international transfers. And, the investigator said they wouldn't have expected HSBC to raise a chargeback on the card payments as there was no reasonable prospect of success.

Miss C disagreed with the investigator's opinion, raising the following points:

- HSBC had been slow in resolving her fraud claim, and had she been able to talk to the fraud team when she first called to raise the fraud claim, her funds could've been recovered.
- She hasn't received any goods or services.
- HSBC's fraud monitoring system should've picked up her payments as fraudulent.

Miss C asked for an ombudsman to review her case.

Having reviewed Miss C's case, I could see that we hadn't considered or commented on the customer service element of her complaint. So, I wrote to Miss C explaining that I intended to reach the same outcome as the investigator regarding the payments she'd made and felt the £50 compensation was fair.

Miss C responded highlighting the poor service she'd received from HSBC, saying she had to talk to different departments and repeat the same information more than once. She feels HSBC should've helped and supported her more and feels HSBC should refund her in full. Miss C talked about the impact this has had on her mental wellbeing.

### **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.

I'm really sorry to disappoint Miss C, but I can't fairly ask HSBC to refund her. I'll explain why.

#### *The two card payments Miss C made*

The two card payments Miss C made were to purchase cryptocurrency.

Generally, HSBC can hold Miss C liable for the disputed transactions if the evidence suggests it's more likely than not that she made or authorised the transactions herself. In this case it's not in dispute that Miss C authorised the payments. I appreciate that Miss C transferred the cryptocurrency she bought to a scammer and ultimately suffered a loss as a result, but that doesn't mean that I can hold HSBC liable.

In this case, I wouldn't have expected HSBC to have raised a chargeback as it was unlikely to be successful. I say this because Miss C made the card payments to purchase cryptocurrency, which she received. So, she got what she paid for. Chargeback doesn't look at the end destination of the funds, it only looks at the initial transaction, which in this case is the purchase of cryptocurrency. On that basis, I'm satisfied that HSBC acted reasonably in not raising a chargeback.

Also, based on the low value of these two payments, I wouldn't have expected HSBC to have intervened or prevented Miss C from making the payments. So, I can't fairly ask HSBC to refund Miss C for the two card payments.

#### *The two international payments*

In broad terms, the starting position in law is that HSBC are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account and the Payment Services Regulations (PSR's).

While I appreciate that Miss C believes HSBC's fraud system should've flagged these payments as suspicious, I don't agree. While these were international transfers, they were only £1,500 in total. And having reviewed her previous account activity, I'm not satisfied these payments were so unusual or out of character that HSBC should've identified a potential scam risk.

I understand that this represents a lot of money for Miss C, but HSBC has to strike a balance between identifying payments that could be fraudulent and then responding appropriately based on their concerns and ensuring minimal disruption to legitimate payments.

In this case, I'm not satisfied that HSBC should've been concerned about these payments or intervened and therefore can't hold them liable for Miss C's loss.

#### *The level of customer service Miss C received*

Miss C is unhappy that she was unable to contact HSBC's fraud team when she first realised she'd been the victim of a scam, and feels this impacted on HSBC's attempt to recover her money.

International banks aren't governed by the same rules and regulations as UK banks, and HSBC's attempt to recover the funds is reliant on the beneficiary bank's co-operation. When the beneficiary bank didn't respond promptly, HSBC chased for an answer, which is what I would've expected. Ultimately, the beneficiary bank took nearly a month to respond. When they did respond, they advised HSBC that the account beneficiary was refusing to return the funds – so there was nothing further that HSBC could've done.

Also, I think it's unlikely that any funds would've been recovered even if Miss C had been able to report the scam sooner. I say this based on the time gap between Miss C making the payments and realising it was a scam, and the response HSBC received from the beneficiary bank.

HSBC have accepted that Miss C didn't receive the level of customer service she should've in trying to raise her fraud claim and paid her £50 in compensation. From what I've seen, HSBC provided their initial response to Miss C's fraud claim within two days of her raising it, letting her know they wouldn't be refunding her. At this stage, HSBC hadn't had a response from the beneficiary bank so couldn't let Miss C know the result of their recovery attempts.

Most of the delays that Miss C experienced were due to the beneficiary bank not responding, which I can't hold HSBC liable for. However, I think Miss C should've been able to report the fraud claim when she became aware she'd been the victim of the scam, so agree HSBC could've provided a better level of service.

But it's important to explain that, just because Miss C didn't receive the level of service she should've, doesn't mean that I can fairly ask HSBC to refund the money she's lost as a result of the scam. Having carefully considered everything, I think the £50 that HSBC has already offered is fair. If HSBC hasn't already credited Miss C's account with the £50, they should do so.

Having carefully considered everything, I can't fairly ask HSBC to refund Miss C.

#### **My final decision**

My final decision is that I don't uphold this complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept

or reject my decision before 18 March 2024.

Lisa Lowe  
**Ombudsman**