

## The complaint

Mr B complains that HSBC UK Bank Plc (“HSBC”) won’t refund money he lost when he fell victim to an investment scam.

## What happened

The detailed background to this complaint is well known to both parties. The facts about what happened aren’t in dispute, so I’ll focus on giving my reasons for my decision.

The complaint concerns a single debit card transaction of £2,660 which Mr B made to a cryptocurrency provider in November 2023. This was made in connection with an investment opportunity he was introduced to. In order to make a deposit, Mr B was required to purchase cryptocurrency and transfer that to his investment account. When he couldn’t make a withdrawal, he realised he’d been scammed.

## 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’d like to start by thanking both Mr B and HSBC for their patience while this complaint has been awaiting an ombudsman’s review.

I’m sorry to hear about the impact this incident has had on Mr B. I don’t doubt that this has been a difficult period for him. I’d like to reassure him I’ve read and considered everything that has been submitted in its entirety.

From what Mr B has described about the events leading up to and since making the payment he’s now disputing and based on my independent research into the company involved, it’s not in question that he was the victim of a scam. And it’s very unfortunate that he’s lost money. But HSBC doesn’t automatically become liable to reimburse his loss.

Under the Payment Services Regulations 2017 (PSR) and in accordance with general banking terms and conditions, banks should execute an authorised payment instruction without undue delay. The starting position is that liability for an authorised payment rests with the payer, even where they are duped into making that payment. There’s no dispute that Mr B made the payment, and so it is considered authorised.

But in accordance with the law, regulations and good industry practice, a bank should be on the look-out for and protect its customers against the risk of fraud and scams so far as is reasonably possible. If it fails to act on information which ought reasonably to alert a prudent banker to potential fraud or financial crime, it might be liable for losses incurred by its customer as a result.

I’ve looked at the operation of Mr B’s account in the year leading up to the scam payment and I don’t consider the transaction in dispute to be *that* unusual such that I think HSBC ought to have had cause for concern and taken additional steps to establish whether there

was a heightened risk of financial harm due to fraud. I acknowledge that the transaction was comparatively higher than previous transactions in that period, but it isn't uncommon for a customer to make a one-off larger value payment every now and then. As the investigator explained, and I agree, there wasn't an emergence of a pattern of increased spending activity such that it ought to have triggered an alert.

I accept that the transaction in question was identifiably cryptocurrency related. But that in and of itself doesn't mean that it ought to have flagged as suspicious. Buying cryptocurrency is a legitimate exercise. I note that Mr B's account statements show previous cryptocurrency-related spending.

Having thought about this carefully, I haven't seen any other factors at play here such that, in my view, HSBC should have been concerned and ought to have questioned Mr B before processing the transaction. What this means is that in the circumstances of this case, I don't consider HSBC acted unfairly or unreasonably in processing the transaction.

I've also thought about whether HSBC could have done more to recover the funds once it became aware of the situation, as in some circumstances the money can be recovered. This was a card payment, so the recovery avenue would have been limited to raising a chargeback.

But Mr B's payment didn't go to the scammer directly, it went to a cryptocurrency exchange. He wouldn't be able to make a successful chargeback claim in the circumstances because the merchant he paid did provide the service requested i.e., conversion of fiat money into cryptocurrency. The fact that Mr B forwarded on the cryptocurrency to the scammer doesn't give grounds for a valid chargeback against the cryptocurrency exchange. So, I don't think HSBC was under any obligation to raise a chargeback dispute for Mr B.

In conclusion, I know that Mr B will be disappointed with this outcome. Despite my natural sympathy for the situation in which he finds himself due to the scammer's actions, for the reasons given, it wouldn't be fair of me to hold HSBC responsible for his loss.

### **My final decision**

For the reasons given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 December 2024.

Gagandeep Singh  
**Ombudsman**