

## **The complaint**

Mr S complains that HSBC UK Bank Plc (“HSBC”) hasn’t protected him from losing money to a scam.

## **What happened**

The background to this complaint is well known to both parties, so I won’t repeat everything here. In brief summary, Mr S has explained that between July and November 2023 he made 12 payments totalling £6,295 from his HSBC account ultimately for what he thought was a legitimate investment.

Mr S subsequently realised he’d been scammed and got in touch with HSBC. Ultimately, HSBC didn’t reimburse Mr S’s lost funds, and Mr S referred his complaint about HSBC to us. As our Investigator couldn’t resolve the matter informally, the case has been passed to me for a 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’ve decided to not uphold Mr S’s complaint for materially the same reasons as our Investigator. I’ll explain why.

I see no reason to doubt that Mr S has been the victim of a scam. He has my sympathy. Ultimately, however, Mr S has suffered his loss because of fraudsters, and this doesn’t automatically entitle him to a refund from HSBC. It would only be fair for me to tell HSBC to reimburse Mr S his loss (or part of it) if I thought HSBC reasonably ought to have prevented the payments (or some of them) in the first place, or HSBC unreasonably hindered recovery of the funds after the payments had been made; and if I was satisfied, overall, this was a fair and reasonable outcome.

## **Prevention**

I’m satisfied Mr S authorised the relevant payments. HSBC would generally be expected to process payments a customer authorises it to make. And under The Payment Services Regulations and the terms and conditions of the account, Mr S is presumed liable for the loss in the first instance, in circumstances where he authorised the payments. However, this isn’t the end of the story. Good industry practice was that HSBC ought to have been on the lookout for transactions that were out of character or unusual to the extent that they might have indicated a fraud risk. On spotting such a payment instruction, I would expect it to intervene in a manner proportionate to the risk identified.

Bearing this in mind, I’ve considered whether HSBC acted fairly and reasonably in its dealings with Mr S when it processed the relevant payments. However, there are many transactions made by customers each day, and it’s not realistic or reasonable to expect HSBC to stop and check every payment instruction. I appreciate Mr S has said another bank

he's with warns him of potential scams all the time, and that's good. But I'm not deciding here what might be able to be done, but instead what I think I would reasonably have expected. There's a balance to be struck between identifying payments that could potentially be fraudulent, and minimising disruption to legitimate payments (allowing customers ready access to their funds). And here, I'm not persuaded I can reasonably say Mr S's payments, taken individually or collectively, were such that HSBC reasonably ought to have intervened before following Mr S's instructions to make them.

As our Investigator explained, the payments were mainly of low value and spread over a period of weeks. For example, £120 was paid in July; £80 was paid in August; a total of £800 was paid in September split between three payments, each at least a week apart from the others. The amounts paid in October and November were more: a total of £1,805 in October by way of three payments, each, again, spread at least a week apart; and a total of £3,080 in November, by way of one payment on 5 November for £1,645, and then two further payments on 21 November totalling £1,435. There's nothing about the amounts and frequency of these payments from which I think it would be fair for me to say HSBC did something wrong by not intervening in them. And whilst I note the payments were going to a company associated with cryptocurrency, not all payments made for cryptocurrency are made as a result of a scam; and I don't think it was unreasonable if HSBC, by the nature of these particular payments, wasn't sufficiently concerned about a fraud risk to intervene in them. This means I'm not persuaded HSBC unreasonably failed to intervene in or prevent the payments before they were made.

### Recovery

The payments were sent from Mr S's HSBC account to his account with a legitimate crypto exchange, from where Mr S then moved the funds onto the scammers. As the payments were made to an account Mr S owned and controlled (but they'd already been sent on from there to the scammers), I'm satisfied there's nothing HSBC could've reasonably done to recover the funds. So I'm satisfied I can't say HSBC unreasonably hindered recovery of the funds.

I'm sorry Mr S was scammed and lost money. However, I can't reasonably tell HSBC to refund him where I don't think it unreasonably failed to prevent the payments or recover them.

### **My final decision**

For the reasons explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 13 June 2024.

Neil Bridge  
**Ombudsman**