

## The complaint

Ms B is unhappy that HSBC UK Bank Plc will not refund the money she lost as the result of an authorised push payment (APP) scam.

Ms B has brought her complaint through a representative, for ease of reading I will refer solely to Ms B in this decision.

## What happened

As both parties are now familiar with the details of the scam I will not repeat them here in full. In summary, Ms B completed an inquiry form online as she was interest in investing in cryptocurrency. She was then contacted by the scammer who gained remote access to her computer and helped her open a digital wallet and an account on what she understood to be a crypto trading platform. Between 2 and 22 September 2021 Ms B made 4 faster payments to her digital wallet and then into her trading account as set out below:

payment	date	value
1	02/09/2021	£10
2	07/09/2021	£1,331.70
3	17/09/2021	£2,727.09
4	22/09/2021	£2,000

There were two credits of £70 sent from the receiving account on 6 September 2021 and 6 January 2022 so her total loss was £5,928.79.

Ms B realised it was a scam when the funds disappeared from her trading account. She received another call from a scammer claiming to be from a recovery team, trying to persuade her to make more deposits to recover her lost money. She refused and the scammer then stopped contacting her. She did not raise a fraud claim with HSBC at the time. It first heard from her representative on 8 February 2023.

Ms B says HSBC did not do enough to protect her.

HSBC said it could not help as it was not the point of loss: Ms B moved the money to an account in her name and it was lost from there.

Our investigator did not uphold Ms B's complaint. She did not think the transactions were such that the bank ought to have intervened before processing them. And whilst HSBC contacted the receiving bank when it heard from Ms B's representative, no funds remained.

Ms B disagreed and asked for an ombudsman's review. She said HSBC should have intervened - the scam payments were going to a high-risk beneficiary and were of higher than average value for her account. HSBC should have provided warnings about cryptocurrency.

## **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.

There's no dispute that Ms B made and authorised the payments. Ms B knew why she was making the payments. At the stage she was making these payments, she believed she was sending money to purchase cryptocurrency that would allow her to invest. I don't dispute Ms B wasn't investing as she thought she was, but I remain satisfied the transactions were authorised under the Payment Services Regulations 2017.

It's also accepted that HSBC has an obligation to follow Ms B's instructions. So in the first instance Ms B is presumed liable for her losses. But there are other factors that must be considered.

To reach my decision I have taken into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time. To note, as the payments were made to another account in Ms B's name the principles of the Contingent Reimbursement Model (CRM) code do not apply in this case. This means I think that HSBC should have:

- been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.
- had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions are generally more familiar with than the average customer.
- in some circumstances, irrespective of the payment channel used, taken additional steps or made additional checks before processing a payment, or in some cases declined to make a payment altogether, to help protect its customers from the possibility of financial harm.

In this case I don't think HSBC can fairly be held liable for Ms B's losses. I'll explain why.

Ms B argues that the payments were large for her account and HSBC should therefore have intervened and provided a warning which would have prevented the scam.

I disagree. I have reviewed Ms B's statements for the 12 months prior to this scam. Whilst I accept payments two to four were higher than Ms B's average debit that in itself does not mean they ought to have been identified as suspicious. They were not high-value in the context of typical retail banking transactions, they were not made in quick succession on the same day, they did not drain Ms B's account and there will always be outliers in an account holder's spending patterns. And whilst they were to an identifiable cryptocurrency platform, I have to hold HSBC accountable to the rules, guidance and good industry practice in place at the time the scam occurred – and not what we can expect of banks now. There is a balance to be struck between identifying payments that could potentially be fraudulent and minimising disruption to legitimate payments.

So, in the round, I cannot fairly conclude that HSBC ought to have intervened in any of the transactions or to have reasonably suspected Ms B was the potential victim of financial harm. It follows I am satisfied that HSBC was not at fault when it followed Ms B's payment instructions without intervening in some way.

I have then considered if HSBC did what it needed to when it became aware of Ms B's loss.

As she had moved the money out of the recipient account and into the fraudulent investment platform at time of the scam, HSBC would have been unable to recall any funds even if it had been made aware in a more timely manner. I can see it nonetheless attempted recovery in February 2023 after Ms B's representative made contact. But as Ms B already knew, no money remained.

This means I am not instructing HSBC to refund any money to Ms B. Nor have I found any grounds to award the £500 compensation she asked for.

I'm sorry Ms B lost a considerable amount of money which was very distressing for her. I can understand why she would like to be compensated for her losses. And I do accept Ms B has fallen victim to a sophisticated scam. But I can only consider whether the bank, which had no involvement in the scam itself, should be held responsible for what happened. For the reasons set out above I do not find HSBC can be held liable in the circumstances of this case.

### **My final decision**

I am not upholding Ms B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 25 March 2025.

Rebecca Connelley  
**Ombudsman**