

The complaint

Mrs W complains that HSBC UK Bank Plc ('HSBC') did not reimburse the funds she lost to a scam.

What happened

Mrs W fell victim to a manipulative scam. She was contacted on 16 September 2023 by an individual she believed to be from HSBC, who she held her current account with, as well as her investments. They explained that her accounts had been hacked and there was fraudulent activity occurring. She was then referred to a representative from the 'Financial Conduct Authority' (FCA) who asked her to assist them in investigating a large-scale fraud led by Scotland Yard. They said they believed someone from HSBC was involved in trying to access Mrs W's accounts and she was told not to tell anyone about the investigation, including her family or the police.

As part of this, she was advised to download screen sharing software, open new accounts with third party banks and liquidate her investments held with HSBC to then buy gold bars which would be collected by a courier. She was told the courier would provide a password to her, so she knew they were genuine.

Mrs W followed the instruction of the scammer and telephoned HSBC on 21 September to close all of her investments and transfer the funds to her savings account. She told them she would be gifting the funds to her family. Mrs W proceeded to make the following payments to a company I will call 'B' from her Premier account– who are a genuine company who sell gold bars:

Date	Amount
10/10/2023	£500
12/10/2023	£4,584.12
18/10/2023	£10,000
19/10/2023	£25,000
20/10/2023	£25,000
21/10/2023	£25,000
22/10/2023	£25,000
23/10/2023	£25,000
25/10/2023	£25,000
26/10/2023	£25,000
27/10/2023	£25,000
28/10/2023	£25,000
29/10/2023	£25,000
31/10/2023	£25,000
01/11/2023	£24,500
02/11/2023	£25,000
06/11/2023	£25,000
07/11/2023	£25,000
08/11/2023	£25,000

09/11/2023	£25,000
10/11/2023	£25,000
13/11/2023	£25,000
14/11/2023	£25,000

After these payments, Mrs W ran out of funds and began attempting to take out loans to fund further payments. These applications were declined and eventually, in January, the scam was revealed when the police showed her a video of a courier scam and reviewed her messages to find contact from the scammer.

Mrs W, with the help of her daughter, raised a scam claim with HSBC but they did not provide a final response within the allotted timescale. As a result, the complaint was referred to our service. Our Investigator looked into it and felt HSBC had missed some key red flags that indicated Mrs W was falling victim to a scam. This included a phone call from a third-party bank Mrs W opened an account with as part of a scam, who notified HSBC they had detected screen sharing software present at the account opening, which was a strong indication of a scam. As well as contradicting information from Mrs W about why she was selling all of her investments when compared to the reasons she provided about why she was buying gold. And concerns raised by the police about the purchasing of gold being out of character for Mrs W.

The Investigator therefore felt HSBC should have asked Mrs W to attend branch with a family member, which is what HSBC had suggested on 19 October 2023 when the Banking Protocol had been invoked in branch. But this did not happen, and instead Mrs W was able to make further payments totalling £499,500 to B. They therefore felt the payments from 19 October 2023 onwards should be reimbursed by HSBC.

The Investigator did acknowledge that a safe account scam warning had been provided over the telephone to Mrs W when she was making a payment of £1,000 to her account with a third-party bank I'll call 'M'. And that Mrs W was not honest with both her banks and the police throughout her interactions with them. But they also considered Mrs W's age at the time of the scam, which was 83, and therefore the fact she was more vulnerable to this type of scam in particular. As a result, they felt a reduction in the redress of 25% was fair in the circumstances, as well as 8% simple interest from the date of the transactions to the date of settlement. They also felt £1,000 in compensation for the mistakes HSBC made in not blocking the payments and carrying out a full review of her accounts was fair.

Mrs W and her representative accepted the findings overall, and agreed with the recommended redress.

HSBC responded and did not agree with the findings. In summary they felt that this was an unusual scam that would be difficult to spot, and felt the uphold was speculative and based on hindsight. Overall, they did not think any intervention would have been successful and Mrs W would have carried on with the payments regardless. They also did not think the recommended refund of 75% of the loss from 19 October onwards was typical of the standard redress.

As an informal agreement could not be reached, the complaint has been passed to me for a final 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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

Broadly speaking, the starting position in law is that an account provider is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the account. And a customer will then be responsible for the transactions that they have authorised.

It's not in dispute here that Mrs W authorised the payments in question as she believed they were necessary to protect her funds. So, while I recognise that she didn't intend the money to go to scammers, the starting position in law is that HSBC was obliged to follow Mrs W's instruction and process the payments. Because of this, she is not automatically entitled to a refund.

The regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams. So, I've also thought about whether HSBC did enough to try to keep Mrs W's account safe.

As there are a number of factors relevant in this case, I have included a timeline of what I feel is relevant to the outcome.

16 September	<i>Call from scammer saying Mrs W's account was hacked and it was being referred to the FCA.</i>
21 September	<i>Mrs W called to close her investments and have all the funds paid to her Premier savings account. In the call she said it was a family matter and she would be passing the funds on to them.</i>
27 September	<i>£19,058.31, £28,698.69, £41,935.46, £38,336.09 and £21,881.26 credit her savings account.</i>
2 October	<i>£1,000 payment to M picked up for fraud questions. Mrs W is given a relevant scam warning.</i>
9 October	<i>Call from M to HSBC checking if Mrs W has been the victim of a scam as they detected remote access software when her M account was opened.</i>
10 October	<i>£43,852.30 and £195,086.22 credit the saving account</i>
11 October	<i>Payments to B for gold start. Mrs W calls to ask what the limit of sending money is. She tried to make a payment of £10,000 to B over the phone but had already reached the daily limit.</i>
12 October	<i>First collection of the gold by a 'courier' – password used</i>
13 October	<i>Police Officer visits Mrs W when she tries to buy £500,000 of gold from a separate gold company. He writes an e-mail to HSBC saying while Mrs W says she is buying gold herself and not being coerced, he is raising concerns with HSBC due to the out of character</i>

	<i>behaviour.</i>
18 October	<i>£88,231.26 credits the savings account. Mrs W transfers £200,000 from her savings account to the Premier account.</i>
19 October	<i>Banking Protocol raised in local branch as Mrs W tried to make a payment of £199,818.32 to B. The same Police officer is contacted and again advises HSBC of his concerns despite what Mrs W says. He provides HSBC with the phone number of Mrs W's daughter and they call her. She says she was told by HSBC that payments to the merchant had been blocked and would not be lifted unless Mrs W attended a branch with a family member.</i>
20 October	<i>Mrs W tried to make an online payment of £200,000 but this is unsuccessful. She asks to increase her daily limit but is told it is £25,000. She then successfully makes a £25,000 transfer to B.</i>
21 October	<i>Call to Mrs W from HSBC on advice of police. Mrs W says she is buying gold as an investment from a company she had used before.</i>
24 October	<i>Mrs W attempts another £25,000 transfer to B but this is stopped and after a phone call Mrs W is referred to a branch. In branch she speaks with the fraud team and the customer care team and is asked for invoices to show B is genuine and she is receiving the gold she is purchasing. She provides this and is able to continue making almost daily payments of £25,000 to B.</i>

There are other interactions and pieces of evidence I have considered, but I have mentioned above the points I feel are key. Having carefully considered everything available to me on file, I agree with the Investigator that the scam could have been revealed on 19 October 2023 when the Banking Protocol was invoked in branch and Mrs W's daughter was contacted. I think that, had a holistic review of her accounts been carried out at that point and Mrs W's account been frozen until a family member joined her in branch to review her accounts, further payments connected to the scam could have been prevented. I'll explain why in more detail.

I have firstly considered the communication around Mrs W selling her investments. It should be noted that our service has a separate complaint specifically around HSBC's actions when Mrs W asked to sell her investments, so I will not be discussing this in much detail. I can see Mrs W telephoned the Investment Helpdesk at HSBC and asked to close her various investments and transfer the funds to her savings account. She was asked for a reason why she had decided to close all her investments and she answered that she would be passing the funds onto her family. Following this, her relationship manager telephoned Mrs W to discuss her reasoning further, and Mrs W confirmed she had spoken with her children and decided to sell the investments and gift the proceeds to them.

I think the reason Mrs W gave for closing her investments was important, as she did not mention wanting to re-invest her funds in gold or gift her children gold bars instead of cash. And she said that her children were aware of her decision to sell her investments and give them the proceeds, however Mrs W's daughter has said that this was not the case. And had she or another family member been brought into branch with Mrs W to discuss her accounts at a later date, this could have been revealed and I think it's more likely this would have therefore revealed the scam.

I've gone on to consider the call between M and HSBC on 9 October, where M expressed that they had concerns Mrs W could be the victim of a scam. They had detected screen sharing software when Mrs W opened her account with them. A week prior to this, Mrs W's first payment to her account with M had been picked up for a fraud check, and she was asked how long she had held her account with M, to which she said a few years. I would have expected this kind of information to be captured by HSBC. I therefore think HSBC missed an opportunity to look into M's concerns further as M informed them this was a brand-new account, which did not match what Mrs W had told them just a week before.

In this call, M made it clear they were very concerned Mrs W could be the victim of a scam and told HSBC they had frozen the account she held with them. In response to this, HSBC said they had no concerns about Mrs W's account activity and that there was no indication there was any fraudulent activity on the account. However, just a few weeks prior, Mrs W had sold all of her investments, and by that point just under £150,000 had credited her Premier savings account from these closures. While this alone may just be unusual, when combined with the information from M and their concerns she was the victim of a scam, I think this was a clear indication something was not right, and Mrs W was therefore at risk of financial harm.

On 13 October HSBC received an e-mail from the police letting them know Mrs W had attempted to purchase £500,000 of gold from a different gold merchant but this had been refused. They confirmed that while Mrs W said she purchased the gold herself and had not been coerced into doing so, they understood this was out of character for her so wanted to raise these concerns. However, I cannot see any contact was made with Mrs W specifically about this issue, despite the fact just over £5,000 had already been transferred to B by that point.

Following this point, Mrs W transferred a significant sum of £200,000 from her savings to her current account, which was a large portion of the sale of her investments. On 19 October, Mrs W went to her local HSBC branch and attempted to make a transfer of £199,818.32 to B. In response to this, the branch staff invoked the Banking Protocol. Given the rise in fraud and scams over the years, the Banking Protocol was introduced in late 2016 with it being rolled out nationwide across the UK in 2017. The initiative was brought about through UK Finance, National Trading Standards and local police working with Banks and Building Societies. The Banking Protocol allows branch staff, when they suspect its customers may be at risk of financial harm or suspected fraud, to directly contact local Police who can attend the branch.

In this case, HSBC telephoned the police, and the call was passed onto the same officer who had attended Mrs W's home on 13 October. Unfortunately, branch calls are not recorded so I have been unable to listen to this call, but the officer in question has given his account of what was discussed. The officer spoke with the branch manager who expressed concern that Mrs W had already made a number of transfers to B for gold and that the activity matched that of an investment scam. The officer says he advised the branch manager of his concerns and provided the contact number for Mrs W's daughter, who he had spoken with on 13 October about the issue. He also said the branch manager explained she was unhappy to release any additional funds unless a next of kin attended branch with Mrs W.

Following this, it appears the branch manager contacted Mrs W's daughter. Again, this call was not recorded so I cannot know exactly what was said, but Mrs W's daughter has given her version of events. In this, she says she was informed the payments to B had been blocked and this would only be lifted if Mrs W attended branch with a member of her family. Despite this, Mrs W was then able to make 18 online transfers of £25,000 and one of £24,500. It is unclear why a block was not placed on her payments to B or why she was not

clearly instructed to visit the branch with a family member. On balance, considering the risk level the payments posed I think this would have been a sensible next step.

As mentioned previously, I also think it would have been sensible at this stage to carry out a full and holistic review of what had happened across Mrs W's accounts up to that point, especially considering the large amount of funds that had just credited Mrs W's account and the significant sum she had tried to purchase gold with. And if this had been done, I think all of the points above, such as the reasons Mrs W gave for her investment closures, the concerns M raised about her being the victim of a scam and the previous concerns raised by the police could have been considered and this would have been a clear indication Mrs W was the victim of financial harm.

HSBC have said they don't think an intervention would have prevented Mrs W from making the payments regardless. However, as explained above, I think a full review of the account along with involvement from Mrs W's family would have made it clear Mrs W had been misleading the bank and her family. So, I think it would have been clear at that stage that a scam had occurred. The police officer who visited Mrs W on 13 October has said that when he visited her again in January 2024, she maintained that she had purchased the gold herself with no coercion. However, after showing her a video about courier scams, she revealed everything, and the spell of the scammer was broken. I therefore think it is likely that with involvement from Mrs W's family, and clear, tailored in person warnings about safe account and courier scams, the scam could have been revealed.

It should be noted that while HSBC has said this was an unusual type of scam, they did provide a warning on their website as late as February 2024 about these specific types of scams. While I appreciate this is dated around four months after the scam in question, I think it shows they were aware of the existence of these type of scams around the same time. In this article, HSBC sets out customers may be told they have been a victim of fraud within the bank and shouldn't trust them, they are helping a police investigation, and they need to buy gold or jewellery to stay safe. These are all the exact circumstances of the scam Mrs W fell victim to, so I think HSBC could reasonably have uncovered this.

I will briefly consider some other interactions between Mrs W and HSBC. On 21 October 2023, Mrs W received a call from the customer care team in which they explained they had spoken with the police about the gold purchases and asked if everything was alright. Mrs W confirmed she had already been through her reasoning for the transfers and that it was just another form of investment, which was accepted by HSBC. The call only lasted around three minutes and on balance, I don't think it touched on any of the concerns raised by the bank manager or the police on 19 October. And I don't think Mrs W was questioned in sufficient detail in the call about the investment and how she found it or what she understood the details of it to be. It follows that I think this was another missed opportunity to explore the significant concerns Mrs W was at risk of financial harm and provide her with scam warnings relevant to her situation.

On 24 October Mrs W attempted to make another £25,000 transfer to B but this was stopped and she was again referred to branch. I can see there were a number of phone calls that day, between the branch and the fraud team, as well as the customer care team. In one of these, the branch staff explained they were not comfortable carrying out the payment in branch due to their concerns and the fraud team also confirmed they were uncomfortable with the payments requested by Mrs W. In this call, while Mrs W is asked some questions about the company she was purchasing gold from, these again were not probing in the way I would have expected considering the fact she had made around £140,000 worth of transfers to B up to that point. She was asked to provide invoices proving B was legitimate, which she was able to do. And she was therefore able to continue making the payments.

Considering everything that had happened on Mrs W's accounts up to that point, I don't think this interaction was sufficient. I cannot see that Mrs W was given a clear safe account or courier scam warning in person, which typically target elderly customers such as Mrs W and which her situation had a number of the hallmarks of. And while it was clear the branch staff and the fraud team still had concerns Mrs W could be the victim of a scam, they allowed her to carry on making transfers following this point as they had received an invoice from B. However, having an invoice does not rule out all possible scams Mrs W could have fallen victim to.

Having carefully considered everything available to me, I think HSBC should reimburse Mrs W from the payment of £25,000 on 19 October 2023 onwards.

I am aware that Mrs W's family would also like me to consider the attempted loan applications she made in December 2023 and the subsequent concerns HSBC had that she had fallen victim to a scam around that time. While I appreciate their strength of feeling on this matter, as I have already decided the point at which HSBC should reasonably have uncovered the scam was prior to this point, I see no reason to look into the failings by HSBC weeks later. But I want to assure them that I have considered all the evidence provided to me to come to an outcome I feel is fair, including the compensation award I will set out later.

I will now consider whether or not Mrs W should reasonably bear some responsibility for the losses as a result of any negligence in her actions and if it is therefore reasonable for me to make a reduction in the award based on this. In doing so, I've considered whether Mrs W has acted as a reasonable person would to protect herself against the loss she suffered. The test is objective but needs to take account all the relevant circumstances.

Mrs W consistently followed the instruction of the scammer when it told her not to reveal the investigation to anyone, including her family, the bank and the police. Because of this, there were a number of instances when Mrs W was not truthful about the purposes of the payments or the reasons for selling her investments. In addition to this, there is at least one instance of HSBC providing her with a warning that was relevant to some of her circumstances. This was in the phone call on 2 October when Mrs W sent a payment of £1,000 to her account with M and this was picked up for fraud checks. In this call, the call handler said HSBC would not ask her to move funds to any other account to help with an investigation. While this did not perfectly match Mrs W's situation, I think it was similar enough that it could reasonably have given Mrs W pause for thought.

In addition to this, the amounts involved in the scam were significant and I think this also should have been concerning to Mrs W. She was being asked to sell her investments totalling over £500,000 and then use those funds to purchase the same value in gold and pass it over to a stranger. On balance, I think the significant sums involved should also have made Mrs W more cautious about the scam as a whole. So, I do think there should be a deduction in the redress to account for Mrs W's contribution to the loss.

However, I also have to consider that Mrs W was 83 years of age when the scammer contacted her. The FCA acknowledged that consumers over 80 can be more in danger of being targeted for certain scams which HSBC would have been aware of. Social engineering scams can be very convincing and are more often targeted at elderly customers because they are more vulnerable to them, due to their generally increased trust of people in positions of authority. With all of this in mind, I think Mrs W was therefore more vulnerable to this specific scam. In this case, Mrs W was so convinced that she was dealing with Scotland Yard that she was persuaded not to reveal the full truth to her own family and local police, and I think this shows she was firmly under the spell of the scammer.

While I acknowledge that Mrs W has not wholly acted as I think most reasonable people

would if they were exposed to the same circumstances, I also have to consider her specific vulnerabilities and that she was more susceptible or in danger of falling victim to this type of scam. Because of this, I do not think a 50% reduction in redress would be fair in the circumstances. And I think a more appropriate reduction would be 25%.

I appreciate HSBC has said this is not our typical approach. In every case we consider we must have regard to the individual circumstances and therefore to what an appropriate reduction might be. I realise that quite often a 50% reduction is appropriate but that isn't always the case. I am able to award redress that I think is fair and reasonable in all the circumstances of the complaint. I have explained above why I feel it is fair to reduce the redress by 25% given the specific circumstances of this case and Mrs W's situation in particular.

I've finally considered whether compensation for the distress and inconvenience caused to Mrs W is due in the circumstances, and in doing so I've considered the significant value of the loss she suffered. From the point at which I think HSBC should reasonably have intervened and most likely uncovered the scam, the loss was £499,995. This has had a significant impact on Mrs W, to the point that she says she began selling her own jewellery to pay her bills.

Mrs W was an elderly customer who has been significantly affected by this scam and I think considering the number of red flags available to HSBC that they missed, and the significant levels of distress and inconvenience incurred, the compensation awarded should reflect all of this. It should be noted that when reaching an amount that I feel is fair, I have taken into consideration all of the points raised by Mrs W and her representative, including the actions of HSBC following the point at which I think they should have acted. With all of this in mind, I think an award of £1,000 is reasonable in the circumstances.

Putting things right

HSBC should reimburse Mrs W from the payment of £25,000 on 19 October 2023 onwards. The total loss is £499,500. As explained above, I think there should be a reduction of 25% to account for Mrs W's contribution to the loss. This brings the total reimbursement due to £374,625.

HSBC should add 8% simple interest to the redress from the date of the transactions to the date of settlement. If HSBC considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs W how much it's taken off. It should also give her a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

HSBC should also pay Mrs W £1,000 compensation for the distress and inconvenience their failure to uncover the scam and take appropriate action caused her.

My final decision

I uphold Mrs W's complaint in part and recommend HSBC UK Bank Plc pay the redress outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 1 April 2025.

Rebecca Norris
Ombudsman