

The complaint

Miss R complains that HSBC UK Bank Plc didn't do enough to protect her from the financial harm caused by an investment scam, or to help her recover the money once she'd reported the scam to it.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In December 2022, Miss R was referred by a friend to someone I'll refer to as "the scammer" who said he'd help her to invest in cryptocurrency. The scammer told Miss R he worked for an investment company and that she would be making investments into stocks and shares in large companies.

The scammer communicated with Miss R via WhatsApp and told her to buy a new laptop and to download AnyDesk remote access software so he could help her with her investments. He also told her to open accounts with "R", "W", and a cryptocurrency exchange company, which I'll refer to as "C". The scammer asked her to first purchase cryptocurrency through C and the load it onto an online wallet. Between 14 December 2022 and 17 February 2023, she made sixteen faster payments from Bank H totalling £88,020.19. Between 21 December 2022 and 30 January 2023, she made five faster payments from W totalling £49,555.19. And between 27 January 2023 and 24 February 2023, she made eight faster payments from Bank C totalling £68,990. All these payments were to bank accounts in Miss R's own name. Then, between 24 February 2023 and 6 June 2023, she made seven payments from R to a cryptocurrency account in her name totalling £43,030, (of which £1,500 was returned to the account).

When she'd used up her savings, the scammer told Miss R to take out loans to fund the investments, and in February 2023 she was passed to a more senior broker to discuss larger investments. She realised she'd been scammed when she didn't receive any returns on her investments, and she lost contact with the scammer. She complained to HSBC arguing that it had flagged transactions in December 2022 but failed to do so in January 2023.

HSBC said the initial payment for £10,000 on 14 December 2022 was held for additional checks and when it contacted her, she confirmed she was transferring funds to pay for home renovations and that she'd had received the bank details from the beneficiary. The payment was reprocessed, but it later rejected by the beneficiary bank.

Further transactions to accounts in Miss R's name were held for checks on 15 December 2022 and 16 December 2022. During a call on 15 December 2022, the agent asked if she'd been told to open the account by a third party and if she'd been asked to mislead HSBC, which she denied. The payments were then processed.

Our investigator didn't think the complaint should be upheld, noting that on 14 December 2022 Miss R had made two attempts to transfer £10,000 from HSBC. She selected 'purchase' as the payment purpose and during the subsequent call, she said the payment

was for a property renovation and she'd been given the payee details in person. On 15 December 2022, there was a further call when she confirmed there was no third-party involvement, and she was moving the funds to an account in her own name.

Our investigator noted that on 13 January 2023, Miss R attempted to make a transfer from Bank N into another account in her name. Bank N blocked the payment and Miss R said the funds were intended for home improvements. Bank N asked for evidence of the payment purpose and warned Miss R she'd likely fallen victim to an investment scam. It then invoked the banking protocol, and eventually closed the account.

He also explained he'd listened to recordings of calls Miss R had with Bank C on 23 February 2023, 24 February 2023, and 27 February 2023. During these calls, Bank C asked about the purpose of the payments and gave basic scam warnings. She said she was moving money either to save it or because she wanted to spread her funds across her various accounts.

Our investigator felt that Miss R's interactions with HSBC and her other banks demonstrated her determination to send the funds despite having been presented with warnings, so even if HSBC had asked more probing questions, it wouldn't have stopped the scam.

Finally, he said there wasn't a realistic prospect of a successful recovery because the payments were made to an account in Miss R's name and moved on from there.

Miss R has asked for her complaint to be reviewed by an Ombudsman.

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 reached the same conclusion as our investigator. And for largely the same reasons. I'm sorry to hear that Miss R has been the victim of a cruel scam. I know she feels strongly about this complaint, and this will come as a disappointment to her, so I'll explain why.

I'm satisfied Miss R 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although she didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of her bank account, Miss R is presumed liable for the loss in the first instance.

There's no dispute that this was a scam and even though there have been some inconsistencies in Miss R's account of what happened, on balance, I accept she was scammed. But although she didn't intend her money to go to scammers, she did authorise the disputed payments. Wise is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

Prevention

I've thought about whether HSBC could have done more to prevent the scam from occurring altogether. HSBC ought to fairly and reasonably be alert to fraud and scams and these payments were part of a wider scam, so I need to consider whether it ought to have intervened to warn Miss R when she tried to make the payments. If there are unusual or

suspicious payments on an account, I'd expect HSBC to intervene with a view to protecting Miss R from financial harm due to fraud.

The payments did flag as suspicious on HSBC's systems and so I've considered whether the interventions were proportionate to the risk presented by the payments. The first three payments which Miss R attempted on 14 December 2022 and 15 December 2022 weren't processed following interventions from HSBC, so I'm satisfied those interventions were effective.

The first payment which was successfully processed from the HSBC account was £5,000 on 15 December 2023 following a call with HSBC. I've thought about what took place during this call and I'm satisfied the intervention was proportionate and that HSBC was prevented from identifying that the payment was being made to a scam because Miss R gave misleading answers about the purpose of the payment. I'm also satisfied that Miss R was given scam warnings which were relevant to the information available, and in those circumstances, I'm satisfied that HSBC did enough and that it didn't miss an opportunity to stop the scam.

Based on the value of the payments and the fact Miss R was making payments to an account in her own name which had become an established beneficiary, I don't think HSBC missed any further opportunities to intervene. However, even if I did think HSBC should have intervened in any of the later payments (for example the payment for £15,000 on 16 February 2023 which was the highest scam payment she made from her HSBC account), I don't think it would have made any difference because Miss R has explained that she'd been coached to lie and so I'm satisfied the scammer would have guided her on how to deal with whatever she was asked. There's also evidence from her interactions with her other banks that she was determined to make the payments and had no intention of disclosing the real purpose of the payments, so I don't think she'd have answered truthfully if she'd been asked more probing questions.

Miss R disputes that it's fair to reach a conclusion based on how she might have reacted to a better intervention, but I've carefully considered all the evidence and reached a conclusion on what I think is likely to have happened if HSBC had done what we'd expect it to have done, and I'm satisfied that's fair.

Recovery

I don't think there was a realistic prospect of a successful recovery because Miss R paid an account in her own name and moved the funds onwards from there.

Compensation

The main cause for the upset was the scammer who persuaded Miss R to part with her funds. I haven't found any errors or delays to HSBC's investigation, so I don't think she is entitled to any compensation.

I'm sorry to hear Miss R has lost money and the effect this has had on her. But for the reasons I've explained, I don't think Revolut is to blame for this and so I can't fairly tell it to do anything further to resolve this complaint.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 14 January 2025.

Carolyn Bonnell
Ombudsman