

## **The complaint**

Mr V complains about the actions of HSBC UK Bank Plc when he lost money to a scam.

Mr V is being represented by a claims management company but for ease I'll only refer to Mr V in my decision.

## **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 June 2024 Mr V was selling a car online when he was contacted by a potential buyer. After speaking with the buyer Mr V was informed about an investment opportunity by investing in crypto through a merchant. Mr V had been interested in crypto before so he researched the merchant online. He was also given documents setting out investment plans over the long term.

Mr V was out of work at the time due to a medical condition (which HSBC were unaware of at the time of the payments here). So, started to move money from his HSBC to a joint account he held with F. He also made debit and credit card payments towards the scam. In total at the instruction of the merchant Mr V made around £150,000 in payments to F from his HSBC account before those funds were forwarded to a crypto exchange. However, after being unable to withdraw money from the merchant in October 2024, Mr V realised he had been scammed.

Mr V contacted HSBC to ask for a refund but it said it hadn't done anything wrong and it wouldn't be able to recover the money from F as Mr V confirmed he moved it to the crypto exchange. Unhappy with this response Mr V brought his complain to this service.

Our investigator didn't think the complaint should be upheld. He said the payments wouldn't have seemed suspicious to HSBC in the circumstances as it was to an account in his name and he had made larger payments from his HSBC account in the past. He added that even if HSBC had intervened, he didn't think Mr V would've been honest about the reasons he was moving the money to F. That's because when F intervened in one of the payments to the crypto exchange, Mr V hadn't been honest in his answers to F.

Mr V disagreed and has asked for an Ombudsman's review. He said the amount of money being sent should've been suspicious to HSBC here and it should've intervened. If it had then Mr V says the scam would've been uncovered.

## **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 Mr V has been the victim of a cruel scam. I know he

feels strongly about this complaint, and this will come as a disappointment to him, so I'll explain why.

I've read and considered the whole file. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

Where the evidence is incomplete, inconclusive, or contradictory (as it is here), I have to make my decision on the balance of probabilities – that is, what I consider is more likely than not to have happened in the light of the available evidence and the wider surrounding circumstances.

It is common ground that Mr V authorised the scam payments of around £150,000. I accept that these were authorised payments even though Mr V was the victim of a scam. So, although it wasn't his intention to pay money to the scammers, under the Payment Services Regulations 2017 (PSRs) and the terms of his account, Mr V is presumed liable for the loss in the first instance.

However, taking into account the law, regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for HSBC to take additional steps or make additional checks before processing a payment in order to help protect customers from the possibility of financial harm from fraud.

HSBC's first obligation is to follow the instructions that Mr V provides. But if those instructions are sufficiently unusual or uncharacteristic for the account, I'd expect HSBC to intervene and to ask their customer more about the intended transaction before processing it. I'd also expect HSBC to provide suitable warnings about common scams to help their customers make an informed decision as to whether to continue with the payment. There might also be cases where it's appropriate for HSBC to refuse to follow the instruction if there are good grounds to believe it is being made as a result of a fraud or scam.

So, the starting point here is whether the instructions given by Mr V to HSBC (either individually or collectively) were unusual in relation to his typical account activity. So, I've reviewed the account statements around the time Mr V made the payments in question here. The account was typically well maintained with the balance ranging from around a few hundred pounds up to over hundreds of thousands of pounds at one point in May 2024. And there were genuine transactions on this account ranging from £40,000 - £50,000 in May 2024 followed by a much larger £338,500 payment in late May 2024. And the payments towards the scam were sent to a joint account in Mr V's name which HSBC would've been aware of at the time.

So, I've considered the fact he had made larger genuine payments before this scam and the fact that HSBC was aware the payments were going to a joint account held in Mr V's name. As a result, I'm not satisfied that HSBC would've been sufficiently suspicious of the payments towards this scam so that they should've stopped it and asked further questions to Mr V.

I'd like to make it clear that even if HSBC had intervened (and I'm satisfied it shouldn't), I agree with the investigator that I'm satisfied Mr V wouldn't – on balance – have been honest with HSBC about the reasons for him making the payments. I think he would've likely said to HSBC what he said to F – that he was making an investment and no one else was involved in his payments.

And I don't think this is a case where I think there was anything substantive enough to mean that HSBC would have been justified in refusing Mr V's payment instruction altogether and going against his wishes.

I've considered whether HSBC acted reasonably when it was made aware of the scam. Having done so, I'm satisfied HSBC didn't treat Mr V unfairly by not attempting to recover his money from F here because Mr V has confirmed this was sent on to the scammers as per their instructions. Nor were there any other avenues that HSBC could've been successful in retrieving Mr V funds here.

I appreciate this will come as a disappointment to Mr V, and I'm sorry to hear that he has been the victim of a cruel scam. I've considered his past medical history, but I can't take that into consideration here as HSBC weren't aware of these issues. As a result, I'm not persuaded that HSBC can fairly or reasonably be held liable for his loss in these circumstances.

### **My final decision**

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 24 March 2025.

Mark Dobson  
**Ombudsman**