

The complaint

Mrs W complains HSBC UK Bank Plc (“HSBC”) didn’t do enough to protect her when she fell victim to a scam.

What happened

Both parties are familiar with the circumstances of the complaint so I’ll only summarise the details here.

Mrs W said her mortgage adviser introduced her to an investment opportunity. Mrs W has explained the opportunity as she understood it, she said it was regarding the refurbishment of listed buildings overseas, the rate of return was guaranteed at 10% and the opportunity was presented as safe and secure as the investment was in property.

On 15 September 2018 Mrs W made a payment of £20,000 towards the investment which she said she understood to be a loan and she’d receive bi-annual returns from the company which I’ll refer to as D.

Mrs W said she became concerned she’d been scammed when she didn’t receive any returns.

Mrs W complained to HSBC, and her complaint wasn’t upheld. Unhappy with HSBC’s response, she raised the matter with the Financial Ombudsman. One of our Investigators looked into the complaint and didn’t think HSBC needed to reimburse her funds.

As an 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.

Not every complaint referred to us and categorised as an investment scam is in fact a scam. Some cases simply involve high-risk investments that resulted in disappointing returns or losses.

Certain high-risk investment traders may have promoted these products using sales methods that were arguably unethical and/or misleading. However, whilst customers who lost out may understandably regard such acts or omissions as fraudulent, they do not necessarily meet the high legal threshold or burden of proof for fraud, i.e. dishonestly making a false representation and/or failing to disclose information with the intention of making a gain for himself, or of causing loss to another or exposing another to the risk of loss (Fraud Act 2006).

In simpler terms, some merchants may have used sales and promotional methods that could be seen to be unfair by consumers considering the losses they've incurred – but this does not always amount to fraud.

Having looked at all the information available I don't think I have enough to say D was operating a scam. But even if D was operating a scam, it doesn't necessarily follow that HSBC would need to refund the money that has been lost. So, I've considered if HSBC should reasonably have prevented the payment Mrs W made to D.

In broad terms, the starting position at law is that banks and other payment service providers are expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

Mrs W authorised the payments in question here, so she is presumed liable in the first instance.

But as a matter of good industry practice, HSBC should also have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam. However, there is a balance to be struck: as while banks and Electronic Money Institutions should be alert to fraud and scams to act in their customers' best interests, they can't reasonably be involved in every transaction.

Having reviewed Mrs W's bank statements in the time before the was made I think it was out of character for the way Mrs W typically used her account. It could be said that this with the value of the payment meant HSBC ought to have intervened prior to processing the payment. That said, I believe, on balance, had HSBC intervened on this payment it wouldn't have prevented Mrs W from making it. I say this because neither she nor HSBC had identified sufficient cause for concern that the investment may have been anything other than legitimate at the time the payment was made. I think had HSBC intervened to understand the circumstances of the payment Mrs W would more likely than not have been able to provide reassurances given the due diligence she carried out into the opportunity before deciding to invest. I therefore am not persuaded intervention from HSBC would have stopped her from making the payment.

I'm sorry to disappoint Mrs W further, but I've thought carefully about everything that has happened, and with all the circumstances of this complaint in mind I don't think HSBC needs to refund her money or pay any compensation. I realise this means she's out of pocket and I'm really sorry she's lost this money. However, for the reasons I've explained, I don't think I can reasonably uphold this complaint.

Recovery

The payment isn't covered by the Contingent Reimbursement Model as it predates the code coming into force and the code isn't retrospective.

Given the time between the payment being made and the matter being reported to HSBC I don't think there was much chance of successful recovery of Mrs W's funds.

My final decision

My final decision is that I do not uphold this complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or

reject my decision before 18 July 2025.

Charlotte Mulvihill
Ombudsman