

The complaint

Mr A complains that HSBC UK Bank Plc ('HSBC') hasn't refunded the money he says he lost to an authorised push payment ('APP') scam.

What happened

The circumstances of the complaint are well-known to both parties. So, I don't intend on setting these out in detail here. However, I'll provide a brief summary of what's happened.

On 13 November 2023, Mr A sent two £1,000 payments to a third party as part of an investment, operated by an organisation whom I'll refer to as 'Company I'. Shortly after making the payments, Mr A discovered Company I was a scam and his funds had been stolen.

Mr A contacted HSBC and asked for a refund of the money he lost. HSBC said it couldn't make a reimbursement decision, because there was some doubt about whether Company I was a scam, or a legitimate investment opportunity that failed.

Unhappy with HSBC's response, Mr A referred his complaint to this service. Our Investigator considered the complaint but didn't uphold it. They were satisfied Mr A had fallen victim to an APP scam, but weren't persuaded HSBC was responsible for reimbursing Mr A's loss. They explained that in their opinion, HSBC had met the standards expected of it when Mr A's payments were made, and that Mr A ought to have taken more care when investing with Company I.

Mr A didn't accept our Investigator's opinion and asked for his complaint to be escalated to an Ombudsman for a further review. Since then, HSBC has offered Mr A £100 to apologise for the customer service he experienced whilst waiting for HSBC to give him an outcome.

HSBC's offer of £100 hasn't resolved the complaint and so it's now been referred to me to decide.

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 have been good industry practice at the time.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations (in this case, the 2017 regulations) and the terms and conditions of the customer's account.

It's not in dispute here that Mr A made the disputed payments himself and authorised HSBC to send the funds. So, under the Payment Services Regulations, the starting position here is that Mr A is responsible for the payments (and the subsequent loss) despite the payments being made as the result of a scam, which HSBC now accepts to be the case.

However, a relevant consideration of this complaint is the Lending Standards Board Contingent Reimbursement Model ('CRM') Code, which was in place until 6 October 2024. The CRM Code required firms to reimburse customers who had been the victims of APP scams like this, in all but a limited number of circumstances.

R2(1) of the CRM Code sets out that firms, like HSBC, can refuse to reimburse a scam victim if the payment was made without a reasonable basis for believing that it was being made for a legitimate reason.

Mr A was able to download a mobile app for Company I, which must have added credibility to the scam. Mr A has also said that he was recommended the investment by friends and family who thought it was not only a genuine investment, but a very profitable one. So, I can understand why Mr A thought Company I was legitimate.

Mr A has said that he went to an event hosted by Company I, which was attended by approximately 5,000 others, including some celebrities. Believing that only a genuine company would be able to host an event of that size, Mr A says this also added believability to the scam.

However, I've noted that the event hosted by Company I took place on 19 November 2023, six days *after* Mr A had already invested. As a result, I can't say that anything he saw or heard at that event impacted his decision making at the time the payments were made.

Mr A has explained how he believed the investment with Company I would work. He understood that after investing £2,000 with Company I, he would receive £2,000 worth of cryptocurrency into his account with Company I. He would then be required to click a button within the Company I mobile app five times a day, which would result in a daily return of 2.8% being added to his investment capital. Each day he went through this process, he would receive a return of 2.8% of his total balance.

So, Mr A believed that he was going to make around £56 profit on his initial investment capital, in one day, by clicking a button five times. In my opinion, the premise of the scam run by Company I wasn't believable and the returns were far too good to be true.

When making the disputed payments, Mr A was told to select a payment purpose of paying friends and family, rather than investment, an instruction he followed for both payments. I think Mr A ought to have been concerned that he was being asked to mislead HSBC about the purpose of the payments – that doesn't seem like the actions of a legitimate investment enterprise. I also find it concerning that Mr A sent his funds to the personal account of one of Company I's representatives. I think it's reasonable to expect a genuine company to have a business bank account to receive investors' funds into.

Mr A hadn't been through any verification checks when signing up with Company I and wasn't provided with any terms and conditions setting out the specifics of his investment. Mr A also says that his correspondence with Company I was done through an instant messaging service, which doesn't seem like the platform a genuine investment company would use to communicate with a customer.

Mr A says that Company I began in 2013 and so he thought that a company trading for around ten years must have been legitimate. I haven't been able to find any evidence that Company I was trading in 2013. But I have been able to find negative reviews about Company I, which would've been available to Mr A at the time he made the payments. This suggests that any independent research he did into Company I, *before* investing, was only minimal.

I think there were a lot of red flags about Company I, which ought to have given Mr A cause for concern that the investment opportunity might not be genuine. As a result, I'm persuaded that Mr A made the scam payments without a reasonable basis for believing Company I was legitimate, which allows HSBC to refuse full reimbursement of his loss under the CRM Code.

However, under the CRM Code, HSBC could be partially responsible for Mr A's loss if it failed to provide him with an effective warning in response to a potential scam risk. I've looked at Mr A's statements for the 12-month period prior to the scam. During that time, Mr A had made several other transactions that were similar in value. So, the payments weren't out of character. Mr A says that he received a positive confirmation of payee outcome when setting up the payments and so I don't think there was anything suspicious about the payments at the time they were made. So, in those circumstances, HSBC didn't need to provide Mr A with an effective warning, because I don't think a scam risk was apparent.

Once it was aware of the scam, HSBC did contact the beneficiary bank (the bank Mr A sent his funds to) in an attempt to recover Mr A's loss, but this wasn't successful. I don't think HSBC acted as quickly as it could've done, waiting until the day after Mr A reported the scam to contact the beneficiary bank. However, as the scam was reported around a month after the scam payments were made, it seems unlikely that the delay has resulted in any detriment to Mr A. So, that failing isn't something that would allow me to fairly hold HSBC responsible (even partially) for Mr A's loss.

HSBC could've given a reimbursement decision when Mr A first notified it about the scam run by Company I. Mr A had to chase on several occasions to get an update from HSBC, which has caused him distress and inconvenience. HSBC has apologised for the poor customer service it provided Mr A and offered him £100 compensation. I think that amount is a fair reflection of the impact HSBC's customer service had on Mr A. If it hasn't already done so, then HSBC should pay this to Mr A as soon as possible.

My final decision

For the reasons explained 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 Mr A to accept or reject my decision before 1 August 2025.

Liam Davies
Ombudsman