

The complaint

Mr C is unhappy about HSBC UK Bank Plc (HSBC)'s decision not to refund the money he paid for building work.

What happened

In July 2023 Mr C and his partner came across a building company (I will refer to as H in this decision) on a social media platform when looking to complete some building works on their property. Mr C met an individual (I will refer to as D) who worked for H and would carry out the work.

Mr C and his partner were quoted £72,000 for the work and a payment schedule was agreed. On 18 August 2023 Mr C transferred £7,200 to H as an initial deposit for booking an engineer and draining specialist. A further £7,200 was paid on 31 August 2023 and a further payment of £5,500 paid on 1 September 2023.

At the time Mr C made the payments he believed he was paying for services from H - seemingly subcontracted to D to carry out the building work. However, Mr C says D and his workers turned up for a few days around this time and dismantled the conservatory and removed all the valuable elements of the conservatory but then disappeared.

It seems from some recorded telephone conversations Mr C had with D that H paid D a sum of £5,500 but paid nothing further and so D said he was unable to continue with the work. HSBC deemed the matter a civil dispute. Mr C says this was a scam and wants HSBC to refund him.

Our investigator did not uphold the complaint. She thought HSBC correctly classed this as a civil dispute between Mr C and H and it isn't covered by the Contingent Reimbursement Model (CRM) Code. Mr C did not agree, so the case has been passed to me for a 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, I'm required to take into account relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the available evidence.

I'm sorry to hear about the situation Mr C and his partner have been left in and the impact all of this has had on him. He has paid out a considerable sum of money, yet it seems the work is far from complete and what has been carried out is substandard. I understand Mr C feels any work done was part of a 'confidence' scam.

It's clear that Mr C feels strongly that H has tricked him. From his perspective, H didn't fulfil what was agreed and ultimately didn't turn up to complete the job. But I don't have the power to decide any dispute between Mr C and H. My role is limited to looking at whether HSBC has treated Mr C fairly in declining to refund him.

HSBC didn't contract with Mr C for the building project he wanted done, and I can't hold it responsible for any breach of contract or other failings on H's part. As a starting point in law, Mr C is responsible for payments he's instructed HSBC to make. Unfortunately, there's little protection available to him for bank transfer payments, like these.

HSBC was under a range of other duties and obligations at the time, including to be on the lookout for payments that were unusual or out of character with the aim of preventing customers from falling victim to fraud and scams.

It was also a signatory to the CRM Code which was in force at the time these payments were made. In certain circumstances, that Code can entitle a customer to be reimbursed by banks or building societies after they've fallen victim to an APP (authorised push payment) scam.

But the CRM Code is explicit that it doesn't apply to:

"private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services ... but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier."

The CRM Code also defines an APP (authorised push payment) scam as where a customer intended to transfer funds to another person but was instead deceived into transferring the funds to a different person. Or where the customer transferred funds to another person for what they believed were legitimate purposes but were in fact fraudulent.

I think Mr C intended to transfer funds to H (although I appreciate there is now some doubt in Mr C's mind whether the director behind H actually exists) and he did actually transfer the funds to H. So, I don't think the first part of the definition applies to Mr C's payments.

I've gone on to consider whether Mr C was deceived about the purpose of the payments to the extent that he and H had intended different purposes for the payments.

I've thought very carefully about this. But, there is a high legal threshold for fraud. And there are a number of potential reasons (other than a scam) for the breakdown in a relationship between two parties for a dispute to exist. And unfortunately, businesses (such as H's business) can fail or be mismanaged such that contracts are breached and agreed goods and services aren't provided. But that doesn't necessarily amount to evidence of an intent to commit an APP scam.

An APP scam is where a customer was deceived into making a payment to another person for what they thought were legitimate purposes but turned out to be fraudulent. In this context, that would mean that the very purpose for which H obtained the payments would need to be different to what Mr C believed they were for due to dishonest deception.

I must make a decision on what I think is more likely to have happened. And, based on the evidence I've seen, I think it's more likely here H was attempting to operate as a legitimate business at the time and that other factors ultimately meant the work wasn't completed. I don't think I can safely say H set out from the beginning with the intent to defraud Mr C.

From the evidence I have seen H (or D on behalf of H) did do some work for Mr C here. I appreciate Mr C may not agree with that and I acknowledge Mr C says that what was done was part of a confidence scam. However, I think there is enough evidence here to suggest there was an intention to deliver the agreed services. And I haven't seen any evidence that H didn't use the money in the way it said it would.

H may have provided substandard work and not completed the job and even left the property in a precarious position but that's not enough to say this was an APP scam. Overall, whilst I accept H or D on behalf of H did very little work – it is more than I'd expect from someone who never intended to carry out the work.

Whilst I am unable to share details about a third party and the nature of their relationship with their bank, the evidence I've seen, regarding the beneficiary account, indicates that the account was legitimate, and the activity run as the beneficiary bank would expect. The bank hasn't said it had any concerns about how the accounts were being operated and no other claims of this nature have been made against it. This isn't typical of an APP scam.

I appreciate H advertised itself as being part of the Association of Master Tradesman and that wasn't true. Whilst this suggests H wasn't always acting honestly - I don't think this is enough to show specifically *in relation to those payments made* – there was an intent to defraud.

I accept and acknowledge that Mr C feels he has not received the service he expected, and that H may have provided misleading or incorrect information and is now uncontactable. H may have been acting unprofessionally and unethically but I still think H's intention was to do the work that had been agreed and that the payments were being made for the purpose Mr C transferred them for.

I know this will be a huge disappointment to Mr C, but I can't exclude the possibility that H entered the agreement in good faith, intending to fulfil the work and then was unable or unwilling to fulfil the agreement for some reason. The evidence doesn't lead me to conclude it's more likely (than these alternative possibilities) that H intended to steal his money from the outset and never had any intention of fulfilling the arrangement in full or in part.

I sympathise with the position Mr C has found himself in, and I'm in no way saying he doesn't have a legitimate grievance against H. But this type of dispute isn't something that the CRM Code covers.

Overall, I don't think HSBC's decision to treat this as a civil dispute was unfair or unreasonable. That means that I can't fairly hold HSBC responsible for the loss suffered here by Mr C. It also means I find that HSBC had no ability or obligation to try and recover his money.

In addition, HSBC doesn't have any duty or obligation to intervene in payments that are legitimate or to protect its customers from the impact of a bad deal. So, I can't fairly criticise HSBC for not doing more when Mr C made the payments.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 25 June 2025.

Kathryn Milne
Ombudsman