

## **The complaint**

Mr M complains that HSBC UK Bank Plc wouldn't reimburse him money he lost from what he believes to be fraud.

## **What happened**

As the circumstances of this complaint are well-known to both parties, I have summarised them briefly below.

Mr M sought the services of a contractor to carry out significant renovations to his property. After completing due diligence on several candidate contractors, Mr M decided to employ the services of a business I will refer to in this decision as D.

A representative of D attended Mr M's property and quoted him £80,000 for the work to be completed. Between January and February 2023, Mr M made eleven payments totalling £44,170 to a representative of D.

Mr M says that there were several issues with the contractor between the time of the initial deposit payment and the final payment made. This included having to chase them to commence works, and damage caused to the site and a neighbouring property – resulting in additional costs not factored into the original quote.

Eventually, Mr M deduced that D had set out to intentionally defraud him. He stopped any further payments and asked D for a refund of the monies already paid. While a refund was initially agreed, it never materialised. This cemented Mr M's belief that he'd been the victim of fraud and so he reported matter to the authorities and HSBC.

HSBC considered Mr M's claim but concluded the matter to be a civil dispute between Mr M and D, rather than fraud. As such, it didn't offer to reimburse him his loss.

Mr M, unhappy with this response, referred matters to our service for an independent review. An Investigator considered the evidence and testimony provided by both parties, but concurred with HSBC's position that the matter was more likely a civil dispute between Mr M and D. They didn't recommend HSBC reimburse Mr M his loss.

Mr M maintained that he'd been the victim of fraud. As he disagreed with the Investigator's assessment, the matter has now been passed to me for a decision to be made.

## **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.

It's not in dispute that Mr M made the payments in dispute. So, in accordance with the Payment Services Regulations 2017, Mr M is presumed liable for the loss in the first instance.

However, HSBC is a signatory to the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. Under that Code, firms are expected to reimburse customers who fall victim to fraud, subject to a number of exceptions.

However, the CRM code is only relevant if I'm persuaded Mr M did fall victim to a fraud. The Code specifically doesn't cover certain types of disputes. It says:

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

Likewise, even had the payments not fallen within the scope of the CRM Code, HSBC has no liability to reimburse Mr M his loss from a bank transfer where the matter is deemed a civil dispute rather than a fraud.

From the information provided so far, I'm persuaded that Mr M's circumstances don't meet the CRM Code's definition of an authorised push payment (APP) scam. I'll explain why.

Firstly, I think it's important to acknowledge that Mr M has clearly been severely impacted here by the actions of D's representatives. He has openly disclosed to our service his difficult personal circumstances and how D's actions have exacerbated these. I am sorry to hear of Mr M's circumstances, but I'm limited in my power to consider only the actions of HSBC and not D.

I can appreciate Mr M's perspective here. He's pointed out that a representative of D has instructed him to make payments for work it either did not complete or did complete albeit to a poor standard; in some instances, causing further damage and therefore remedial work needing to be completed. However, there is a distinction here that I must make when reaching my findings. Did the representative of D intend to defraud Mr M from the outset or is there an alternative and less nefarious explanation for their actions?

I accept that D didn't carry out the work it was contracted to complete. It is clear from the evidence Mr M has provided that the work that was carried out was likely to a poor standard. And I don't disbelieve what he has said when describing the damage that was caused. But this isn't sufficient to support an intention to defraud.

Within the correspondence Mr M has provided to this service, a representative of D contacted him after works had stalled and informed him his father had passed away. He also disclosed that he'd been detained in hospital for mental health reasons caused by his bereavement. I must be open to the possibility that this did indeed occur. And thus far, I've not been presented with evidence to the contrary.

Mr M has provided submission to this service that he says indicates D was set up as a fraudulent operation from the outset. While I agree there is some circumstantial evidence that supports the possibility D may not have been acting in good faith, it's not persuasive enough for me to say that it's *likely*. In summary, Mr M says:

*The business was incorporated on Companies House circa six-months prior to his decision to contract them for his renovations. It was then dissolved in June 2024, approximately one year later.*

While the age of the business was short lived, that isn't an automatic indication that a person

set up the business with an intention to defraud. There are many legitimate reasons why businesses fail shortly after they commence trading, such as financial difficulties or personal circumstances.

I cannot find any evidence that the Director of D has opened any other businesses in construction and dissolved them in a similar manner.

*Law enforcement has accepted reports of fraud – indicating it accepts such a crime has been committed.*

Respectfully, I can't agree with Mr M's interpretation here. Law enforcement accepts reports of crime and perceived crime. The recording of a fraud allegation does not necessarily mean a fraud can be proven.

However, if information were to come to light in future that law enforcement investigations uncovered an intent to defraud, this information could be presented to HSBC for further consideration.

*D failed to provide materials paid for.*

I've noted that Mr M paid a considerable sum in return for materials and labour he'd not received. However, these circumstances are specifically excluded from the scope of the CRM Code as quoted earlier in my decision. Failing to provide goods and services paid for is an example of the type of dispute that the Code considers to be private and civil in nature.

And as I have already touched upon above, there are a number of reasons why D may have been unable to provide the materials paid for, such as financial difficulties or personal circumstances. I've been unable from the evidence provided to rule these possibilities out.

#### *Other observations*

I've been unable, from open resource checks, to find any further information that D, or its representative, were likely running a fraudulent operation.

Our service has also obtained information from the beneficiary account where Mr M sent his funds. I'm unable to disclose specific information that third-party bank has provided us in confidence, as it pertains to a third-party. But having considered the information carefully, I cannot conclude based on this information that the representative acted with the intent to defraud.

#### *Conclusions*

There are obvious indications here of malpractice and unprofessional conduct. But as I have already touched upon above, I have been unable to rule out from my investigation that there were legitimate reasons why D and its representative were unable to complete the work paid for.

I want to make it clear to Mr M that I'm not entirely ruling fraud out here – I accept this as a possibility. But for the purposes of assessing whether HSBC ought to have reimbursed Mr M for any loss incurred, I'm persuaded that these circumstances don't meet the definition of an APP scam under the CRM Code. I therefore cannot reasonably conclude that Mr M is eligible for a reimbursement from HSBC.

**My final decision**

For the reasons I have given above, I don't uphold this complaint.

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

Stephen Westlake  
**Ombudsman**