

The complaint

Mr L complains that HSBC UK Bank Plc didn't do enough to protect him when he made a payment to a property investment opportunity that he now considers was a scam.

In bringing his complaint to this service Mr L is represented, but for ease of reading I will refer to Mr L throughout this decision.

What happened

The background to this complaint is well known to both parties, so I won't repeat it all in detail here. But in summary, I understand it to be as follows.

At the beginning of November 2019, Mr L said he received an email regarding an investment opportunity, with a company that I'll refer to as "H". Mr L responded to the email to express an interest, following which an agent contacted him. He was told the investment related to an initial 1-year bond, with guaranteed annual returns of 15%.

Believing this to be a good opportunity, on 10 December 2019, Mr L made a payment to H, for £10,000, from the account he held with HSBC.

Mr L did not receive the returns expected and H entered into liquidation in late 2021. Mr L now says the investment wasn't genuine and that he is the victim of a sophisticated scam.

In July 2024, Mr L complained to HSBC, but it didn't uphold his complaint. In summary, it didn't consider Mr L had been the victim of a scam, instead it thought what had happened was deemed a civil dispute.

Unhappy with HSBC's response, Mr L brought his complaint to this service. One of our Investigators looked into things but didn't think the complaint should be upheld. In summary, they reviewed it under the Lending Standards Board's Contingent Reimbursement Model ("CRM Code"). Having done so, based on the evidence, they were unable to say that H had set out to deliberately defraud investors and the payment therefore didn't meet the CRM code's definition of an APP scam.

Mr L didn't agree with our Investigator's view. In summary, he maintained that his complaint should be upheld. He said HSBC had failed to comply with PAS 17271:2017 (the PAS Code) and FCA Principles. He said why he thought H was operating a scam and a Ponzi scheme. In particular, Mr L referred to incentives paid to introducers to recommend the investment and to high return rates of up to 15%.

As agreement couldn't be reached, the complaint 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.

Mr L has made some detailed submissions in support of his complaint. I've read and considered everything he has sent in, but I don't intend to respond in similar detail. I'm very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I'm aware that in his submissions, Mr L has referred to other decisions issued by our service. But I would point out that, while on the surface complaints may seem quite similar, each complaint is determined by its own individual circumstances. Here, as I'm required to do, I've looked at the individual circumstances of Mr L's complaint.

I'm minded to not uphold this complaint for materially the same reasons as our Investigator. I'll explain why.

Is Mr L entitled to a refund under the CRM Code?

HSBC was a signatory to the CRM Code. This is a scheme through which victims of scams could (in certain circumstances) receive reimbursement from the banks involved. The CRM code doesn't apply to all APP payments which ultimately result in a loss for the customer. It only covers situations where the payment meets its definition of an APP scam. The relevant definition for this case would be that Mr L transferred funds to another person for what he believed was a legitimate purpose, but which was in fact fraudulent.

I've considered the evidence available, but I can't fairly conclude that Mr L has been the victim of a scam in line with this required definition. This means the CRM code doesn't apply to his payments and so HSBC isn't required to reimburse him under it. Our Investigator covered in detail why they considered the payment purpose Mr L had in mind, and the purpose in which the recipient had matched. I'm in agreement with them that this was the case.

It's accepted Mr L's purpose for making the payment was to invest in H and for the funds to be used towards property development. And that he was persuaded at the time this was a legitimate venture. I accept that H failed to deliver what was expected from the investment, but I haven't seen any clear evidence this was always what it intended; or that at the time of the payment, it planned to use Mr L's funds in a different way to what was agreed. I haven't seen persuasive evidence that H's intention was to defraud Mr L when it took his funds.

In making my judgment on this, I'm conscious H completed three separate developments. It was also working on other projects which it sold on to other developers when it ran into financial difficulty. These actions are indicative of a company operating legitimately.

At the time of the payments, H was a limited company that had been incorporated and operating since 2011. I'm aware H hasn't filed accounts since 2019, and it went into liquidation in 2021. But financial mismanagement isn't enough to show it was not intending to use the funds for development projects. To the contrary, projects were being worked on/completed during the period when H wasn't filing accounts.

Mr L's representatives argue the high incentives paid to unregulated introducers is an indicator of fraud. But I don't think the lack of regulation by the introducers, nor the use of commission, is enough to show H wasn't intending to use the money it received to fund building projects.

I appreciate some investigations are ongoing. But at this point in time, I haven't seen any persuasive evidence from H's liquidator, or any other external bodies, to show H was receiving funds for use in developments it had no intention of completing. Ultimately, the information we currently hold suggests that H was a failed investment venture, not a scam.

All things considered, in the circumstances of this case, I can't agree HSBC was wrong to consider Mr L's situation a civil matter or is wrong not to have reimbursed him under the CRM code at this time.

This also means I'm unable to ask HSBC to reimburse Mr L on the basis that he was vulnerable at the time the payment was made. When the CRM Code applies, a customer can be reimbursed if they meet the definition of vulnerable, even when an exception to reimbursement applies. But since the CRM code doesn't apply, I'm afraid that definition doesn't apply either.

I'm sorry to hear of what's happened to Mr L and I have a great deal of sympathy for him. He has lost a significant amount of money and I don't doubt he has been badly let down by H. But I'm not persuaded this is something that HSBC can fairly be said to be responsible for. And it follows that there isn't a reasonable basis upon which I can require them to do more to resolve this complaint.

It's possible that material new evidence may become available at a future date, which suggests that H did take Mr L's payment using dishonest deception. If that happens, Mr L can ask HSBC to reconsider his claim and, if not satisfied with its response, bring a new complaint to our service.

My final decision

For the reasons outlined 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 L to accept or reject my decision before 30 September 2025.

Stephen Wise
Ombudsman