

The complaint

Mr and Mrs A complain that HSBC UK Bank Plc ought to have done more to protect them from fraud.

As Mr A is the principal complainant, for ease, I will refer to him throughout.

What happened

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

In or around early 2019, Mr A was approached by a friend regarding a potential investment opportunity in the buying and selling of precious metals.

Happy to proceed, Mr A made several transactions over a number of months from his and Mrs A's account, held with HSBC, to accounts instructed by the third-party.

Mr A initially received returns on his investment as promised. But when these stopped, Mr A heard of mismanagement within the business to which he'd invested with. It subsequently transpired that a criminal investigation for fraud was underway and therefore Mr A concluded that he'd been the victim of fraud.

Mr A reported the fraud to HSBC, however, after consideration of his claim it found that it was unable to provide an outcome until the criminal investigation had concluded.

Mr A, unhappy with HSBC's response, referred his complaint to our service for an independent review. After considering the evidence provided by both parties, an Investigator concluded that there was insufficient evidence to support the claim that a fraud had been committed against Mr and Mrs A. They therefore concluded that HSBC were not currently liable for their loss.

Mr and Mrs A disagreed, as they felt they had been the victim of a fraud in the circumstances. As Mr and Mrs A disagreed, the matter has now been passed 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.

There is no dispute here that Mr and Mrs A authorised the transactions in question. And the starting position in law is that they will be held liable for the transactions they authorised in the first instance. That is due to HSBC's primary obligation to process payments in line with

its customer's instructions, as set out in the Payment Services Regulations 2017.

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

However, the CRM Code is only relevant if I'm persuaded Mr and Mrs A 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 and Mrs A their loss from a bank transfer if it was for a legitimate investment that had unfortunately failed.

From the information provided so far, I'm not persuaded Mr and Mrs A have been a victim of fraud. I'll explain why.

Firstly, I think it's important to set out that the function of this service is to informally resolve disputes against regulated financial businesses as an alternative to the courts. Our service does not have the legal power or capability of tracing payments to their end point, nor the ability to interview parties accused of fraud with the aim of hearing their defence: or lack of. I therefore rely upon limited information when trying to determine—on the balance of probabilities—the intent of the individual(s) accused of committing this offence against Mr and Mrs A.

Our service is aware that an ongoing criminal investigation is currently underway. I do acknowledge that this appears, to the layman, to be proof Mr and Mrs A have been the victim of fraud—as it infers that the police have taken the matter seriously enough to pursue this course of action. However, the purpose of an investigation is to gather evidence. And that will likely go toward investigating the accused's intent at the time; the result of which may or may not lead to a prosecution. But I am not privy to the information held by the police, so cannot consult on the wider circumstances of this investigation.

What I do know from the evidence available to me is that:

- Mr A was introduced to the investment by a trusted person.
- Mr A says returns on his investment were paid monthly for almost a year.
- Many of the payments made were to a registered and established business.
- From a review of the receiving accounts where the payments were made, activity on those accounts would suggest they were operating for the purpose to which Mr and Mrs A had invested their funds for.

I have seen no evidence to date that suggests Mr and Mrs A's funds were not used for their intended purpose. Nor have I seen evidence that there were any misrepresentations made to Mr A prior to him sending the funds for investment. It is therefore unreasonable to conclude that sufficient evidence exists to say, on balance, that the parties who received Mr and Mrs A's funds set out with the intention to defraud them from the outset.

Mr A has provided our service with a witness statement from a third-party which he says shows the business to which the funds were paid committed fraudulent conduct. I'm afraid I cannot agree with Mr A to this regard. Within the statement itself, the witness suggests that

the request being made could “potentially” show the business misrepresenting the nature of its financial operations. I don’t find this to be particularly persuasive, in isolation, that the business was operating fraudulently. Nor does it support any assertion that the business misrepresented itself to Mr A as part of his investment.

I do acknowledge the possibility that Mr and Mrs A have been the victim of fraud here. But from the information available to me, I cannot reasonably eliminate the possibility they have instead lost their money to a failed investment. Or, that the persons/businesses they sent funds to have been a victim of fraud themselves.

However, should information come to light in the future that supports Mr and Mrs A’s assertion that have been defrauded, they can present this evidence to HSBC for further review.

Overall, I’m not persuaded from the evidence available that Mr and Mrs A have been the victims of fraud. I therefore cannot reasonably hold HSBC liable for their loss.

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 Mrs A and Mr A to accept or reject my decision before 8 October 2025.

Stephen Westlake
Ombudsman