

The complaint

Mr F and Ms M complain that HSBC UK Bank Plc ('HSBC') hasn't refunded the money they believe they lost to an authorised push payment ('APP') scam.

The complaint was referred to this service by Ms M, so for ease, I'll refer only to Ms M throughout my decision.

What happened

Around August 2023, Ms M instructed a third party – whom I'll refer to as 'Mr L' – to complete some renovation work at her property. Ms M and Mr L agreed a total price of £9,340, which Ms M says was broadly in line with quotes she'd received from other tradesmen.

On 3 August 2023, Ms M paid Mr L £3,150 from her HSBC account. Ms M says this was an upfront payment towards the cost of materials. She made subsequent payments of £2,000 on 26 August 2023 and 29 September 2023 for work which she says didn't take place.

On 12 December 2023, Ms M reported to HSBC that Mr L had scammed her, as he hadn't completed the work he was paid to do and had only delivered materials to the value of approximately £80.

HSBC got in touch with the beneficiary bank (Mr L's bank), who said they didn't think Mr L had scammed Ms M and considered the situation to be a civil dispute between Ms M and Mr L. As a result, HSBC declined to reimburse Ms M's loss. However, HSBC did say that if new information came to light at a later date, which suggested Mr L had scammed her, Ms M could raise the situation with HSBC again for further consideration.

Unhappy with HSBC's response, Ms M referred her complaint to this service. Our Investigator didn't uphold the complaint. They accepted that Ms M hadn't received all the goods and services she'd paid for, which left her out of pocket. However, they weren't persuaded that Mr L had set out to scam Ms M, instead concluding that the work had, most likely, not been completed due to a break down in the relationship between Ms M and Mr L. Our Investigator agreed with HSBC that the situation was a civil dispute between Ms M and Mr L, meaning HSBC wasn't responsible for reimbursing Ms M's loss.

Ms M didn't accept our Investigator's findings. As an agreement couldn't be reached, the complaint has 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.

At the time Ms M made the disputed payments to Mr L, HSBC was signed up to the Lending Standards Board's Contingent Reimbursement Model Code ('CRM Code'). The CRM Code provides additional protection from APP scams, but only in certain circumstances.

When HSBC received Ms M's claim, it said it didn't think she'd been the victim of an APP scam, meaning it didn't need to reimburse her under the principles of the CRM Code because it didn't apply to her circumstances. For me to say that decision was wrong – and HSBC should've refunded Ms M's payments in full – I'd first need to be satisfied that the CRM Code *is* a relevant consideration in the circumstances.

The CRM Code can only apply where the victim's payment meets the CRM Code definition of an APP scam.

Under DS1(2)(a) of the CRM Code, an APP scam is defined as:

“(i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or

(ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.”

DS2(2)(b) of the CRM Code says it doesn't 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”

There's been no suggestion made that Ms M was deceived into transferring her funds to a different person. So, DS1(2)(a)(i) doesn't apply in these circumstances.

To uphold Ms M's complaint under DS1(2)(a)(ii) of the CRM Code, I'd need to be reasonably satisfied that it is more likely than not that Mr L received her payments for a fraudulent purpose. So, I've carefully considered whether the evidence suggests that Mr L was most likely the “legitimate supplier” of a service and whether Ms M's payments meet the CRM Code definition of an APP scam.

The purpose of a payment forms part of the CRM Code definition of an APP scam. As such, the reason Ms M made the payments is a relevant consideration when determining whether the CRM Code applies in these circumstances or not. For me to say the CRM Code applies in this case, I need convincing evidence to demonstrate Ms M was dishonestly deceived about the very purpose of the payments she made.

When Ms M reported the situation to HSBC, she said that the first payment for £3,150 was for materials to be ordered, however she said she only received goods to the value of approximately £80. She said she made the two £2,000 payments for labour, but Mr L didn't carry out any work at her property and ceased communicating with Ms M after making several excuses about why the start date for the work needed to be pushed back.

Ms M said that since making the payments, other individuals had contacted her, raising concerns about Mr L's behaviour. She also says that the police are investigating Mr L for fraud.

Based on the above information, I can understand why Ms M thinks Mr L has scammed her and why she thinks HSBC should reimburse her loss under the CRM Code. However, Ms M has provided information to this service which persuades me that this situation doesn't meet the CRM Code definition of an APP scam. As a result, I don't think HSBC can fairly and reasonably be held responsible for refunding Ms M's loss. I'm sure this outcome will come as a disappointment to Ms M, so I'll explain why.

When Ms M spoke to our Investigator, she said:

- materials had been delivered to her property, including hardcore, wood, sand, artificial grass and blocks/slabs;
- Mr L had attempted to complete some of the work, including weeding, laying some blocks/slabs, removing and replacing a fence and laying some artificial grass (although not as much as had been agreed), which is why she paid Mr L £2,000 on 26 August 2023 for the work he'd done;
- the individuals who contacted Ms M about Mr L said he had sold a pony/horse that wasn't fit for purpose (rather than Mr L been accused of taking money and not delivering the goods and services he was paid for);
- Mr L had done some favours for Ms M (which he didn't charge her for), including reinstalling some hanging baskets (which had previously been hung back to front) and transporting some firewood to Ms M's daughter;
- after she'd made the third payment, Mr L made several excuses for why the work couldn't continue, resulting in her leaving a negative review on Mr L's social media page, after which he blocked her on social media and didn't return to her property; and
- she had sent a message to Mr L's mother on social media, raising concerns about Mr L's behaviour.

Ms M has since said that she didn't speak to our Investigator and that the information referred to above wasn't provided by her. She says that Mr L didn't do any work at her property, and she only received some sand to the value of approximately £80.

I've listened to the call where the above information was provided to our Investigator. The caller was able to answer our Investigator's security questions, such as the caller's name, date of birth and email address. The caller was also able to confirm that the complaint was about HSBC. The caller knew the address where the work was meant to be completed and Ms M's current address. The caller knew the details of the complaint and confirmed details of the dispute with Mr L.

I've also listened to the calls where Ms M spoke to HSBC about her dispute and subsequent complaint. I've not identified any noticeable differences between the calls with HSBC and our Investigator. So, I'm not persuaded on the balance of probabilities that Ms M wasn't the person speaking to our Investigator when the details referred to above were given.

To help me reach a conclusion on whether Ms M's contention is more likely than not, I've also carefully considered the information that Mr L's bank has provided. However, the information provided by Mr L's bank doesn't give me any cause for concern about how the account was being used.

Around the time of Ms M's payments, there were several occasions where Mr L received similarly large credits from third parties, with payment references that suggest he was involved in other building projects. There are multiple transactions being made from Mr L's bank account that are consistent with the building trade, such as large payments to builders merchants. This suggests that Mr L had been operating as a genuine tradesman at the time Ms M paid him.

Finally, it's common for a scammer to immediately remove a victim's funds from their account once a payment has been made. However, that's not what happened here.

I appreciate Ms M says that the police are investigating Mr L for fraud and that she's been told that Mr L's behaviour crossed the line from a civil dispute to fraud. I've seen no evidence that this is the case and I'm not aware of any charges that have been brought by the police against Mr L, in connection with the payments Ms M made or any other activity he is alleged to have been involved in.

Taking into consideration what Ms M has told us about what's happened, I'm persuaded that the situation between Ms M and Mr L was, more likely than not, a civil dispute, whereby the work was agreed for a certain price, some materials and labour were provided, but due to a break down in the relationship between Ms M and Mr L, the work wasn't completed.

I accept Ms M didn't receive everything she paid for and that she's unhappy with the quality of the work that has been done. However, I can't say that the evidence available suggests that Mr L dishonestly deceived Ms M about the very purpose of the payments she made. That's not to say that I condone what Mr L has done – I don't. But here I'm deciding whether HSBC acted unfairly in its answering of the complaint, that the matter was a civil dispute and therefore not covered under the principles of the CRM Code.

I'm really sorry that Mr L hasn't returned Ms M's money and that the work he appears to have done for her wasn't to her satisfaction. I also appreciate that the loss she's suffered is a significant amount to her. However, based on what I've seen, I can't say that it is more likely than not that Mr L intended to scam Ms M at the time she made the payments.

I'm not satisfied Ms M has evidenced that an APP scam has taken place and so I can't ask HSBC to reimburse her loss. The evidence suggests Ms M has a contractual dispute with Mr L and would need to pursue him directly for the loss she's suffered. As a result, I'm not persuaded HSBC was wrong to refuse to reimburse Ms M and I don't think it can fairly be held responsible for her loss under the CRM Code or otherwise.

As explained by HSBC – and reiterated by our Investigator – if new evidence comes to light at a later date that suggests Mr L did intend to scam Ms M, then she can raise the situation with HSBC again for further consideration.

My final decision

I appreciate Ms M feels very strongly that Mr L has scammed her. However, for the reasons explained above, I'm not persuaded an APP scam has been evidenced, meaning HSBC can't fairly and reasonably be held responsible for Ms M's loss. As a result, I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F and Ms M to accept or reject my decision before 17 June 2025.

Liam Davies
Ombudsman