

The complaint

Mr N is unhappy HSBC UK Bank Plc ('HSBC') has decided not to refund the money he lost, to what he believed was an Authorised Push Payment ('APP') scam.

What happened

The details of this case are well-known to both parties, so I don't need to repeat them at length here.

In summary, Mr N came across an individual – whom I'll call Mr H, on a well-known mobile messaging and social media app that I'll call 'S'.

Mr N says Mr H was able to get discounted fast-food from a well-known chain seemingly due to having 'points' that could be used to reduce the price of an item. The food order would then be delivered.

Mr N used Mr H, for a £5 order, which successfully delivered. On 1 February 2024, Mr N attempted to use Mr H again and made three payments totalling £10 (£5, £2 and £3). Mr N says he never received the food and didn't get a refund either.

Mr N, believing he had been scammed, subsequently reported the matter to HSBC on 11 February 2024 through its 'live chat' function to see if his funds could be recovered or reimbursed.

On 24 February 2024, HSBC advised Mr N the beneficiary bank (where the funds had been sent to) had advised it they had no evidence of any fraudulent activity. HSBC advised it therefore couldn't recover any funds.

Unhappy, Mr N formally complained in August 2024. Mr N was also unhappy with the customer service he had received when he reported the matter in February 2024 – as he was told he would receive a call but didn't.

HSBC considered the matter under a voluntary code called the 'Contingent Reimbursement Model' (the CRM Code) which was in force at the time and that it was a signatory of.

The CRM Code provided increased protection for customers who were the victim of scams. But the CRM Code didn't apply to every type of disputed payment. The CRM Code didn't apply to disputes that are deemed to be a 'civil dispute' between two parties.

HSBC deemed the matter a civil dispute as Mr N had paid and received a service from Mr H previously. So, it considered the CRM Code didn't apply to the payments Mr N had made and said it was unable to help him further.

Unhappy, Mr N referred the matter to our service. One of our Investigators reviewed the matter. In short, they didn't uphold the complaint, as they also considered the matter was a civil dispute – and therefore said the CRM Code didn't apply to the payments Mr N had made. So, they didn't consider HSBC was liable to refund Mr N. They also didn't consider any compensation for the customer service was warranted as HSBC, despite not calling Mr N, had looked into and communicated with him in a timely manner.

Mr N disagreed and has asked for an ombudsman's review as the final stage of our process.

So, as the matter hasn't been resolved, it's 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.

I'm 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 – which is whether HSBC acted fairly in its answering of the complaint that the matter is a civil dispute, and it is therefore not liable to reimburse him under the provisions of the CRM Code. 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.

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.

I'm sorry to hear of what's happened to Mr N, but having thought carefully about HSBC's actions, I don't uphold Mr N's complaint. I do appreciate how disappointing this will be for him, but I don't think HSBC has acted unfairly in its answering of the complaint that the matter is a civil dispute and that it is therefore not liable to reimburse him under the CRM Code. I'll explain why.

The starting position in law is that Mr N will generally be considered liable for authorised payments. It's accepted that he authorised the payments in dispute and so he is liable for them in the first instance. At the time Mr N made the disputed payments, HSBC was signed up to the CRM Code. The CRM Code provided additional protection from APP scams, but only in certain circumstances.

When HSBC received Mr N's claim, it said it didn't think he'd been the victim of an APP scam, meaning it didn't need to reimburse him under the principles of the CRM Code because it didn't apply to his circumstances. For me to say that decision was wrong – and HSBC should've refunded Mr N'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.”

And 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 Mr N was deceived into transferring his funds to a different person. So, DS1(2)(a)(i) doesn't apply in these circumstances.

To uphold Mr N'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 H received his payments for a fraudulent purpose.

The purpose of a payment forms part of the CRM Code definition of an APP scam. As such, the reason Mr N 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 Mr N was dishonestly deceived about the very purpose of the payments he made.

Having reviewed all the information and evidence provided, I don't think it was unreasonable for HSBC to consider this a civil matter rather than a scam. I say this because in the case of a scam, I'd usually expect for goods or services not to be provided – and for there never to have been an intent for them to be provided.

Here it seems that Mr N had used Mr H successfully, and the food he had ordered arrived. I don't know why the fulfilment of Mr N's food order the next day was unsuccessful. I accept that it could be that Mr H intended to defraud him, although it is also just as equally likely that there could be other reasons as to why Mr H was unable to carry out the order.

However, on the balance of probabilities, I think it's unlikely that Mr H would carry out the order the previous day for £5, and deliver that food item to Mr N, in order to defraud Mr N out of £10 the next day.

Overall, given Mr N had used Mr H previously, I'm not as persuaded as I would need to be to say that the purpose Mr H had for obtaining Mr N's money was different and that he intended on defrauding Mr N from the outset. It seems more likely than not a civil dispute between the two parties. I can appreciate Mr N was dissatisfied that he didn't get what he had paid for and can see why he thinks he might have been scammed by Mr H. But the test I have to apply is whether there was intent by Mr H, from the outset, to fraudulently obtain Mr N's funds with no intention on providing the service. Given Mr H had delivered to Mr N and seemingly others previously – I can't safely say that is the case here.

Taking everything into consideration, I'm satisfied the CRM Code doesn't apply, and I can't fairly ask HSBC to refund the money Mr N considers he is owed. I don't think HSBC treated Mr N unfairly when it said the payments weren't covered by the CRM Code as they relate to a civil dispute.

I'm also satisfied that there wasn't anything else HSBC could have done to either prevent the loss when Mr N initially made the payments or recover any funds. I say this because the payments weren't remarkable enough or out of character to such an extent whereby I would expect HSBC to have concerns about them and intervene. And as the payments weren't made by debit or credit card, the various schemes available that offer protection to those methods of payments weren't available to HSBC or Mr N either.

With regard to the level of customer service Mr N received. I acknowledge that Mr N wasn't called from HSBC's fraud team as he believed he would be. I agree from looking at that the live chat that it did suggest his case would be passed to HSBC's fraud team and they would be in touch with Mr N, and the live chat agent provided the number that the fraud team would call on. But it also advised Mr N to wait to hear from them. HSBC has advised the case was passed to its fraud team and it reviewed the matter, but it considered it didn't need to contact Mr N – and directly communicated its outcome to him on 24 February 2024. While I accept HSBC's customer service could have been better and possibly the next steps explained more clearly – ultimately HSBC did contact Mr N in a timely manner about the disputed payments, so I don't consider an award of compensation is appropriate here.

I realise that my decision will be disappointing for Mr N. I know he feels strongly about the actions of Mr H. But overall, for the reasons I've explained and based on the evidence available, I can't fairly or reasonably ask HSBC to refund the money Mr N considers he is owed. I consider HSBC were fair in considering the matter a civil dispute which isn't covered by the CRM Code. It is therefore something that needs to be resolved between the two parties through alternative methods.

My final decision

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

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

Matthew Horner
Ombudsman