

The complaint

Mr S complains HSBC UK Bank Plc won't refund the money he says he lost to a scam.

What happened

Mr S came across a property investment opportunity with a company, "C", via a friend who I understand was acting as an introducer for them. C claimed to offer investments in property units which they said they would be refurbishing and renting out as social housing through councils and housing authorities they held contracts with.

In May 2024, Mr S sent C two payments totalling £52,000 to invest in four units. He was expecting to receive monthly returns of £2,400 starting from August 2024. He received two payments for this amount – but then the payments ceased.

Mr S told HSBC he thought he had been scammed. It considered whether the Contingent Reimbursement Model (CRM) code applied – under which victims of Authorised Push Payment (APP) scams should normally be refunded. But it concluded the matter was a civil dispute rather than a scam and that the CRM code therefore didn't apply – noting Mr S had received some funds back from C.

After Mr S complained about this outcome, HSBC said it couldn't review the matter as a scam due to an ongoing police investigation into C which it only became aware of after declining Mr S's claim. Unhappy with this response, Mr S referred the matter to our service.

Our investigator upheld the complaint. They were persuaded there was enough evidence to demonstrate Mr S's payments to C met the CRM code's definition of an Authorised Push Payment (APP) scam without waiting on the outcome of the police investigation. And they were persuaded he was eligible for a full refund of his outstanding loss under the code. They recommended HSBC should refund Mr S's loss – and pay interest to compensate him for its delay refunding him.

Mr S has accepted the investigator's findings but HSBC has appealed. In summary, it says the complexity of this matter means our service shouldn't consider this complaint. It also says it's reasonable to hold off on answering Mr S's CRM code claim pending the outcome of the police investigation. It also says no interest should be applied to our award, or a lower rate should be applied, as there's no evidence that, if Mr S hadn't sent the payments to C, the funds wouldn't have been kept in a low- or non-interest-bearing account.

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.

Having done so, I've decided to uphold it for the following reasons.

Mr S authorised the payments he is now disputing. The starting position in law is that he is liable for them. But HSBC was signatory to the CRM code at the time of these payments – under which firms are generally expected to refund victims of APP scams.

Firms must normally respond to a claim under the CRM code within 15 days. HSBC did initially respond within this timeframe to decline Mr S's claim. But it now seems to be seeking to decline giving an answer in line with R3(1)(c) of the CRM code, which says: if a case is subject to investigation by a statutory body and the outcome might reasonably inform the Firm's decision, the Firm may wait for the outcome of the investigation before making a decision.

I struggle to see how HSBC can rely on this clause to delay making a decision after it had already decided to decline Mr S's claim and deemed the matter a civil dispute. But even if it were seeking to delay giving an answer, a police investigation into C wouldn't, in and of itself, give it grounds to hold off on making a decision.

While there is an ongoing police investigation into C, the specific details haven't been shared with our service. It's not clear whether any proceedings will concern charges that will have a significant bearing on the issues relevant to this complaint. As HSBC is aware, any criminal proceedings that may take place in connection with C will be based on the criminal burden of proof – whereas our service makes decisions on the balance of probabilities. So, it's unclear how or whether the investigation might reasonably inform HSBC's decision.

In a similar vein, HSBC argues our service shouldn't consider this matter due to the complexity involved (at present) in determining whether C were a scam. But I'd point out that our service must consider complaints quickly and with minimum formality. We don't know how long the investigation will take; it could be months or years. I don't think it would be appropriate to delay giving an answer on this complaint, for an undefined period of time, unless doing so is likely to significantly help me decide this issue.

What I need to decide here is whether, on balance, Mr S was scammed. As R3(1)(c) explains, firms can only hold off on giving an answer under the CRM code if the outcome of an ongoing statutory investigation might reasonably inform its decision. In looking at the information we already know about C, and Mr S's dealings with them, I'm not persuaded the outcome of the police investigation is likely to have a bearing on this decision.

Overall, I'm persuaded it's appropriate for us to look into this complaint. I'm satisfied there is already enough to show the payments in question meet the CRM code's definition of an APP scam - and that HSBC should have refunded Mr S within 15 days of him raising his claim. I'll explain why.

Here is the CRM code's definition of an APP scam:

“Authorised Push Payment scam, that is, a transfer of funds executed across Faster Payments, CHAPS or an internal book transfer, authorised by a Customer in accordance with regulation 67 of the PSRs, where:

- 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.”*

I consider it clear Mr S intended to pay C for what he believed was a legitimate purpose (for a property development investment). So, I've gone on to consider whether C's intended purpose was broadly aligned with Mr S at the time the payments were made – and, if not, whether this was the result of a dishonest deception by C. For the following reasons, I'm persuaded C fraudulently deceived Mr S into making these payments.

C held accounts which show around £6,000,000 being spent in a way that appears consistent with property development. But it also received around £20,200,000 from investors. Given C's standard unit price of £13,500, that means it would need to have entered around 1,500 property agreements. But the outgoing payments aren't consistent with C paying for rent, refurbishments and furnishings for this many agreements.

C claimed to hold contracts with local authorities – as they would need to have done to fulfil the investor agreements. But their beneficiary statements show no incoming payments from local authorities or housing providers.

Additionally, several local authorities have confirmed they didn't have a working relationship with C – with one confirming an invoice C used to supposedly demonstrate their working relationship was forged. A director of C was also removed from Companies House due to their identity being stolen; they had no connection to C. This speaks to a dishonest deception by C.

Our service has seen evidence that at least six different units were sold to multiple investors. This comes from complainants providing the individual property addresses they thought their investment was purchasing across around 100 complaints. This information also shows around half of those addresses were in buildings where the owners have confirmed they didn't have a relationship with C.

We've also seen instances where the properties remained derelict after the investment was made or remained under construction when they were supposedly generating an income. All of this makes it seem unlikely C intended to use Mr S's payments for genuine property development investments.

Turning back to C's accounts, we can see around a third of the investment capital wasn't used for the purpose of securing and developing properties to be used for social housing – ranging from cash withdrawals, to payments to individuals involved in operating C, to paying jewellers, restaurants and more. There are further substantial withdrawals and payments which the purpose for is unknown.

Around £440,000 C received could be legitimate income, although none of this came from local authorities or social housing providers. But in comparison, £2,500,000 was paid to investors. It's clear this didn't come from genuine income – strongly indicating C were operating a Ponzi scheme.

Overall, there is little to suggest any transactions are consistent with C completing property development for the benefit of investors, and much more to suggest C weren't using investors' funds for the intended purpose. Even if any of the funds C received were used for property development, it seems likely this was done with the intention of encouraging further investment as part of an overall scam. For these reasons, I'm satisfied Mr S's payments to C meet the CRM code's definition of an APP scam – and it's unlikely the outcome of the police investigation will impact this.

The starting position under the code is that firms should refund victims of APP scams – as I've determined Mr S was. However, there are some exceptions under the code which, if applicable, firms can rely on to decline reimbursement.

Of relevance here is that firms can choose not to reimburse a customer if they ignored an effective warning. Or if they made the payment(s) without having a reasonable basis for believing that the payee was the person they were expecting to pay; the payment was for genuine goods or services; or the person or business with whom they transacted was legitimate. There are further exceptions within the CRM code but they aren't relevant here.

HSBC did show Mr S some scam warnings in the course of him sending payments to C, after he selected that he was paying for an investment. But to rely on these warnings to apply an exception, HSBC would first need to demonstrate they meet the CRM code's criteria for an effective warning. And I'm not persuaded they do.

The warnings were fairly broad, including several pointers not relevant to the features of the scam Mr S fell victim to (such as cryptocurrency investment scams). They mentioned checking whether the company was FCA regulated – but that wouldn't have been a requirement for the type of investment Mr S understood he was entering. And it warned about having been cold called, whereas he had been introduced to the scam by someone he knew personally. In the circumstances, I'm not persuaded the warnings can reasonably be deemed effective.

I'm also persuaded Mr S had a reasonable basis for belief when he made these payments. C were registered on Companies House and provided professional-looking documentation and marketing. He was also introduced to C by someone known to him, which offered him reassurance about the investment they were promoting. It also appears he completed research into C before investing – and there weren't obvious public concerns about them at the time.

I have considered whether the returns Mr S was expecting were 'too good to be true'. But he was given an explanation for how these had been guaranteed; he was told the scheme was government backed – providing an assurance on rents. In the overall context of this sophisticated scam, and bearing in mind the investment was allegedly based around social housing provision, I don't think it's unreasonable he believed this and thought C were offering a legitimate investment.

Overall, I don't think HSBC has demonstrated that any exceptions to reimbursement apply under the CRM code. I therefore think it should refund Mr S's outstanding loss in full.

The investigator thought HSBC should pay 8% simple interest per year on top of the refund amount, running from 15 days after it received Mr S's claim to the date of settlement. That is the point at which they concluded HSBC should have refunded him under the terms of the CRM code. Given the information available about C at the time of Mr S's claim, I'm persuaded HSBC had enough to consider and refund his claim within this timeframe.

HSBC argues that the 8% simple interest rate is too high, and that a lower rate, or no interest at all, should be applied. It says there is no evidence the funds wouldn't have stayed in a non-interest-bearing account if Mr S hadn't made the disputed payments. But at no point has our service argued HSBC should have prevented the scam from occurring. Rather, the interest award is to compensate Mr S for being deprived of the use of these funds from the point at which HSBC should have reimbursed him under the CRM code.

HSBC should be well aware of our service's approach to awarding interest in situations like this. The interest rate we apply is the same rate normally awarded by the courts. It takes into account a range of factors, such as that tax is normally deductible from the award. It is compensation for Mr S being deprived of the opportunity to use these funds, and the potential benefit he may have lost out on – ranging from lost enjoyment from what he could have purchased, to lost profits or interest from investments or savings, or costs incurred from borrowing – due to the refund not being paid when it should have been.

In the circumstances, I'm not persuaded HSBC has demonstrated that our normal interest award would be unfair.

Putting things right

To put things right, HSBC UK Bank Plc must refund Mr S the disputed payments he sent C as part of the scam, minus the credits he received back from them (and any other sums already recovered or returned to him from this scam).

HSBC UK Bank Plc should pay 8% simple interest per year on this amount, running from 15 days after Mr S raised his scam claim to the date of settlement. This is to compensate him for the loss of use of these funds from the point at which it should have refunded him.

If HSBC UK Bank Plc considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr S how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

In order to avoid the risk of double recovery, HSBC UK Bank Plc is entitled to take (if it wishes) an assignment of the rights to all future distributions in relation to scam payments we're upholding that arise, such as from the police investigation and criminal proceedings, before paying the award.

My final decision

For the reasons given above, my final decision is that I uphold this complaint and direct HSBC UK Bank Plc to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 November 2025.

Rachel Loughlin
Ombudsman