

The complaint

Mr M complains that HSBC UK Bank Plc ('HSBC') won't reimburse the funds he lost when he fell victim to a scam.

What happened

Mr M says that in August 2024 he started following a property sourcing profile on social media. Shortly after, he was sent a message about an investment opportunity with a company I'll call 'C'. Mr M showed interest and spoke to the individual on the phone about the opportunity. He was told funds would be used for a rent-to-rent property arrangement where money would be used to refurbish and pay deposits on rental units that would be occupied by social housing tenants.

In September 2024 Mr M agreed to invest in two units which would each return 20% annual interest for three years. Mr M made the following payments to C from his HSBC account:

Payment	Date	Payee	Payment type	Amount
<i>Stopped payment</i>	<i>14 September 2024</i>	<i>Bank account in the name of C</i>	<i>Transfer</i>	<i>£13,500</i>
1	16 September 2024	Bank account in the name of C	Transfer	£1
2	17 September 2024	Bank account in the name of C	Transfer	£6,499
3	17 September 2024	Bank account in the name of C	Transfer	£7,000
4	18 September 2024	Bank account in the name of C	Transfer	£12,500
			Total	£26,000

Mr M attempted to make a first payment of £13,500 which was stopped and reversed by HSBC. But in total he successfully sent £26,000 to C. Mr M expected to receive £1,200 per month in returns, after an initial 75-day grace period.

Shortly after Mr M's payments, C updated investors and said that it was having banking issues and was going through an institutional buyout. The person who introduced Mr M to the opportunity updated Mr M, initially saying that it looked like C would be refunding investors. But by November 2024 Mr M was told that it looked like C had been operating as an elaborate scam.

Mr M raised a claim with HSBC. HSBC told him the beneficiary bank had been notified and would complete an investigation though no timescale could be provided. Through a professional representative, Mr M raised a complaint with HSBC in January 2025. He said HSBC failed to recognise unusual and out of character payments and should reimburse him under the provisions of the Contingent Reimbursement Model Code ('CRM Code'). He also said that if HSBC had made appropriate interventions the fraud could have been prevented.

HSBC told Mr M it couldn't fully review his complaint because there were ongoing law enforcement investigations that would likely shape HSBC's approach to his claim.

Mr M was unhappy with HSBC's response and brought a complaint to this service.

The investigator who considered this complaint recommended that it be upheld in full. He provided a summary of the information obtained from receiving accounts and noted that the majority of funds hadn't been used for the intended purpose. He concluded that HSBC couldn't rely on any of the exceptions to reimbursement under the provisions of the CRM Code.

Mr M accepted the Investigator's findings, but HSBC did not. HSBC says that it is not appropriate to reach a finding at this time, as it does not consider there is adequate evidence available to decide in each individual case about C, whether that consumer has been the victim of a scam. It has also stated that it believes our service should dismiss this case due to its complexity, and that it believes we have relied on generic assumptions rather than specific individual evidence relating to Mr M's payments.

Our Investigator broadly addressed HSBC's follow up points. But because an informal agreement could not be reached, the complaint has been passed to me to make 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.

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 be good industry practice at the time.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the available evidence.

In broad terms, the starting position in law is that HSBC is expected to process payments that a customer authorises it to make, in accordance with the terms and conditions of the customer's account and the Payment Services Regulations (PSR's). But there are circumstances when it might be fair and reasonable for a firm to reimburse a customer even when they have authorised a payment.

Is it appropriate to determine this complaint now?

I have considered whether it would be appropriate to delay my decision in the interests of fairness, as I understand that the police investigation is still ongoing.

HSBC has advised that our service should dismiss this complaint under the rules that govern our service (the DISP Rules) citing DISP 3.3.4A which states:

“(5) dealing with such a type of complaint would otherwise seriously impair the effective operation of the Financial Ombudsman Service.”

HSBC said that the complexity of the situation makes it inherently unsuitable to be dealt with by our service and it would be more suitable for the complaint to be dealt with by a court.

I am aware there is an ongoing police investigation – but I don't find that the police investigation in and of itself means it would be automatically appropriate to dismiss the complaint. Our service is an informal dispute resolution provider that is fair and impartial and aims to settle disputes between businesses and consumers. I have to consider the complaint before me and whether, based on the evidence available, it was fair and reasonable for HSBC to decline reimbursing Mr M under the provisions of the CRM Code.

While there is an ongoing police investigation, for reasons I will go on to explain, I consider I am able to reach a final decision on what I consider is a fair answer to the complaint. So, I don't consider it would be fair or appropriate to dismiss the complaint.

Firms generally have 15 business days to respond to claims under the CRM Code. In this case, HSBC has effectively applied 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.”

There may be circumstances and cases where it's appropriate to wait for the outcome of external investigations and/or related court cases. But that isn't necessarily so in every case, as it may be possible to reach conclusions on the main issues on the basis of evidence already available. And it may be that the investigations or proceedings aren't looking at quite the same issues or doing so in the most helpful way. I'm conscious, for example, that any criminal proceedings that may ultimately take place might concern charges that don't have much bearing on the issues in this complaint; and, even if the prosecution were relevant, any outcome other than a conviction might be little help in resolving this complaint because the Crown would have to satisfy a higher standard of proof (beyond reasonable doubt) than I'm required to apply (which – as explained above – is the balance of probabilities).

In order to determine Mr M's complaint, I have to ask myself whether, on the balance of probabilities, the available evidence indicates that it's more likely than not that Mr M was the victim of a scam rather than a failed investment. But I wouldn't proceed to that determination if I consider fairness to the parties demands that I delay doing so.

I'm aware that Mr M first raised this claim with HSBC in November 2024 and I need to bear in mind that this service exists for the purpose of resolving complaints quickly and with minimum formality. With that in mind, I don't think delaying giving Mr M an answer for an unspecified length of time would be appropriate unless truly justified. And, as a general rule, I'd not be inclined to think it fair to the parties to a complaint to put off my decision unless, bearing in mind the evidence already available to me, a postponement is likely to help significantly when it comes to deciding the issues.

I'm aware the above processes might result in some recoveries for C's investors; in order to avoid the risk of double recovery, I think HSBC would be entitled to take, if it wishes, an assignment of the rights to all future distributions to Mr M under those processes in respect of this investment before paying anything I might award to Mr M on this complaint.

For the reasons I discuss further below, I don't think it's necessary to wait for the outcome of police investigations for me fairly to reach a decision on whether HSBC should reimburse Mr M under the provisions of the CRM Code.

Has Mr M been the victim of an APP scam as defined by the CRM Code?

Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an authorised push payment (APP) scam, except in limited circumstances. But the CRM Code only applies if the definition of an APP scam, as set out in it, is met. I have considered whether the claim Mr M has brought falls within the scope of the CRM Code, which defines an APP scam as:

...a transfer of funds executed across Faster Payments...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.*

To decide whether Mr M is the victim of an APP scam as defined in the CRM Code I have considered:

- The purpose of the payments and whether Mr M thought this purpose was legitimate.
- The purpose the recipient (C) had in mind at the time of the payments, and whether this broadly aligned with what Mr M understood to have been the purpose of the payments.
- Whether there was a significant difference in these purposes, and if so, whether it could be said this was as a result of dishonest deception.

I haven't seen anything to suggest Mr M didn't consider he was investing funds for a legitimate purpose.

So, I've gone on to consider what purpose C had in mind and whether it was in line with what Mr M thought.

Like the investigator, and based on the evidence available, I'm satisfied it's more likely than not Mr M's funds weren't used for the intended purpose and that C obtained the funds through dishonest deception. So, I'm satisfied the payments Mr M made from his HSBC account meet the definition of an APP scam and are covered by the CRM Code.

I have seen confidential information that I'm unable to share for data protection reasons which shows that around £600,000 was spent in a way that appears consistent with property development. But C also received around £20,200,000 from investors. Given a standard unit price of £13,500, C would need to have entered into around 1,500 property agreements. The evidence isn't consistent with C paying for refurbishments, furnishings and rent for this number of properties.

Importantly, C told investors it had contracts with local authorities which would be required to fulfil its agreements. But I have seen no evidence of incoming payments from local authorities or housing providers. And several local authorities have confirmed that they didn't have a working relationship with C. One also said that an invoice used by C to demonstrate such a relationship was fake.

Around £440,000 C received could be legitimate income, but, as I have said above, none of this came from local authorities or social housing providers. But around £2,500,000 was paid to investors. These funds clearly didn't come from income received from the investments – strongly indicating C was operating a Ponzi scheme.

This service has the addresses of properties investors thought their investment was purchasing in around 100 cases. Around half of those addresses were in buildings where the

owners have confirmed that they didn't have a relationship with C. In other cases, properties remained derelict after the investment was made or were under construction when they were supposedly generating an income. And some units were sold to different investors.

Returning to C's accounts, around a third of the investment capital wasn't used for the purpose of securing and developing properties to be used for social housing. There were cash withdrawals, payments to individuals operating C, payments to jewellers and relating to obtaining cars, amongst other things.

An individual named as a director of C was removed by Companies House after it was discovered that the individual's identity had been stolen and they had been added to the record without their consent.

As I have said above, there is also an ongoing police investigation into C.

Overall, the evidence leads me to conclude that most funds weren't used for the intended purpose and any funds that were, were more likely than not used to encourage further investment as part of an overall scam.

Returning to the question of whether in fairness I should delay reaching a decision pending developments from external investigations, I have explained why I should only postpone a decision if I take the view that fairness to the parties demands that I should do so. In view of the evidence already available to me, however, I don't consider it likely that postponing my decision would help significantly in deciding the issues. As regards the police's investigations, there is no certainty as to what, if any, prosecutions may be brought in the future, nor what, if any, new light they would shed on evidence and issues I've discussed.

Is Mr M entitled to reimbursement under the CRM Code?

Mr M's vulnerability

Mr M's professional representatives have said Mr M was vulnerable at the time he made the payment due to a health diagnosis of a close family member. This created a distraction and affected his decision-making at the time.

The CRM Code says:

"A Customer is vulnerable to APP scams, if it would not be reasonable to expect that Customer to have protected themselves, at the time of becoming victim of an APP scam, against that particular APP scam, to the extent of the impact they suffered...In these circumstances, the Customer should be reimbursed notwithstanding the provisions in R2(1), and whether or not the Firm had previously identified the Customer as vulnerable."

I don't know a lot of the detail, but I don't doubt Mr M and his family were going through a difficult time. But based on the information I've been provided I'm not persuaded that what Mr M was going through at the time meant he was particularly vulnerable to this type of scam or that he couldn't reasonably have taken steps to protect himself. Mr M has said that he did look into C and the investment, he had looked for and seen positive independent reviews, had spoken to a member of C's team and asked questions about the scheme and understood the agreements he was entering. I think this shows he was able to take steps to protect himself. With that in mind, while I accept Mr M was affected by what was happening in his family life, I don't agree that it meets the CRM Code definition of vulnerability. It follows that I don't think HSBC needs to reimburse Mr M under this particular provision of the CRM Code.

Can HSBC rely on any exceptions to reimbursement?

The CRM Code says that Mr M is entitled to a full refund unless HSBC can establish that an exception to reimbursement applies.

The CRM Code says that a bank may choose not to reimburse a customer if it can establish that:

- The customer made payments without having a reasonable basis for believing that: the payee was the person the customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate
- The customer ignored an 'effective warning' by failing to take appropriate steps in response to that warning

There are further exceptions outlined in the CRM Code that do not apply to this case. HSBC has not commented on whether Mr M had a reasonable basis for believing C offered a genuine investment. But for much the same reasons given by the investigator, I'm satisfied that Mr M had a reasonable basis for believing C offered a genuine investment opportunity.

- Mr M received a professional looking brochure outlining the opportunity, the levels of protection in place for investors and appeared to show C was registered with the Property Redress Scheme.
- Mr M also signed two genuine looking contracts setting out the agreement reached.
- Mr M saw several positive independent articles about C, including one that had awarded C with the "best alternative investment award 2024".
- Mr M asked questions about the investments and the safeguards in place – such as being government backed and was given reasonable answers to his questions which reassured him about the level of returns he'd been promised.
- C was also registered on Companies House and Mr M spoke directly with an individual from C before investing.

So, given what Mr M has been told and had seen, and what he had found out himself, I think there was enough to reasonably convince Mr M that this was a genuine investment he could trust. With this in mind, I don't think Mr M made the payments without a reasonable basis of belief that C was acting legitimately.

I'm also not satisfied that Mr M ignored an effective warning.

HSBC says it showed Mr M written warnings when he went to make the first three payments and the very first attempted payment which was stopped and reversed by HSBC. The written warning provided each time appears to be the same and no warning was provided at the time of the final payment.

The written warning provided each time was fairly broad. And while it highlighted common signs of scams in general, it essentially told Mr M to check and verify who he was sending money to and to look for signs that the payment request might not be legitimate – such as grammatical errors or a change of bank details. But I don't think the written warning was effective or impactful because it wasn't specific to the scam Mr M was falling victim to.

Having listened to all the phone calls I can't say that Mr M was ever given a warning that would meet the definition of an "effective warning" as defined by the CRM Code. While Mr M wasn't always entirely honest with HSBC during these calls, having listened to them, it's clear HSBC had some concerns, but considering the inconsistencies and concerning nature of Mr M's answers and the concerns that led to the first attempted payment being stopped, I don't think HSBC probed Mr M enough. He hadn't been given a cover story and based on what he

was telling HSBC, I don't think it would have been too difficult to have uncovered the true purpose of his payments and provide an effective warning relevant to property investment scams.

While Mr M was provided with some general scam warnings and advice during these calls, I don't think any of the warnings he was given or saw meet the definition of an effective warning in the CRM Code. They didn't give clear advice about the actions Mr M needed to take to address the specific risk he was facing and were therefore not impactful.

As I'm not satisfied HSBC provided an effective warning, it follows that I can't say Mr M ignored such a warning. Given that I'm not satisfied that HSBC can rely on an exception to reimbursement, Mr M is entitled to be reimbursed in full under the provisions of the CRM Code.

Overall, I'm satisfied that Mr M was the victim of an APP scam as set out in the CRM Code and should be reimbursed as set out below.

Putting things right

I uphold this complaint and require HSBC UK Bank Plc to:

- Reimburse Mr M £26,000; and
- Pay interest on the above amount at the rate of 8% simple per year from the date it declined his claim or 15 days after the claim was first made, whichever is earlier.

I consider this to be fair as there was information available at the time which I think would have indicated to HSBC that this was most likely a scam. It therefore follows that Mr M should be compensated for being deprived of these funds since that time, in line with our usual approach.

If HSBC UK Bank Plc is legally required to deduct tax from the interest award it should send Mr M a tax deduction certificate so he can reclaim it from HMRC if appropriate

As there is an ongoing investigation by the police, it's possible Mr M may recover some further funds in the future. In order to avoid the risk of double recovery, HSBC is entitled to take, if it wishes, an assignment of the rights to all future distributions under other processes in respect of Mr M's £26,000 investment before paying the award. If HSBC elects to take an assignment of rights before paying compensation, it must first provide a draft of the assignment to Mr M for his consideration and agreement.

My final decision

For the reasons given above, I uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 12 February 2026.

Mike Southgate
Ombudsman