

The complaint

Mr and Mr T complain that HSBC UK Bank Plc didn't do enough to protect them when they made a payment to a property investment opportunity that they now consider was a scam.

What happened

Mr and Mr T made one payment from their HSBC account towards a property development investment with 'H'. H went into administration in January 2022, and they now say the investment wasn't genuine and that they're the victims of a sophisticated scam. While this payment was made from a business account, the business was dissolved at the time of the payment. Mr and Mr T were the joint directors of this business and so the account should have been amended/closed and a joint account set up instead.

Mr and Mr T complained to HSBC in February 2024. It gave them rights to refer their complaint to our Service, but didn't communicate an outcome on their complaint.

Mr and Mr T then brought a complaint to this service. Our Investigator didn't uphold their complaint as they said they hadn't seen sufficient evidence this was a scam. As part of its business file, HSBC offered Mr and Mr T £250 for not communicating an outcome on their complaint. As this is for complaints handling only, if they haven't already, Mr and Mr T should contact HSBC directly to discuss this offer.

Mr and Mr T, via their representative, responded to our view with lengthy and detailed correspondence about why they disagreed. In summary they said:

- By August 2009 the director who was the face of H was declared bankrupt following a petition for bankruptcy filed against him. His new venture in H followed the demise of other companies he was a director of, leaving money owed to creditors. This director was declared bankrupt for the second time in 2023. Information was also provided in relation to other directors of subsidiaries of H
- High commissions paid to introducers weren't disclosed to investors
- H raised £123 million from investors but only spent £38 million on property acquisitions. Mr and Mr T say the remaining funds weren't used for their intended purpose
- H engaged in fraudulent financial activities, such as registering illegitimate charges against properties. In doing so, H has breached a duty under the Land Registration Act 2002 and committed a criminal offence
- At least six companies relating to H took out 'bounce back loans'. One such loan was deposited into the personal account of a director of H
- Company accounts were inflated
- Numerous companies connected to H failed to file accounts with Companies House

for many years with the aim of obscuring their true financial position. And accounts that were filed showed fanciful figures

- Projects which were said to be profitable, in fact incurred losses
- H said it failed because of the pandemic but evidence shows H had defaulted on loan payments before this time and the collapse was more likely related to regulatory changes including the FCA's mini bond ban which affected H's ability to raise new investments
- At least 48 companies were transferred out of H prior to liquidation in a deliberate attempt to shelter assets from creditors
- Directors of H haven't cooperated with the insolvency practitioners of H and subsidiary companies because they are hiding information which would show they were operating a Ponzi scheme
- The structure and methods used by H closely mirrored other known scams and directors of H have links with others who have operated such schemes
- Ponzi schemes often engage in genuine activity early on to build credibility

Our Investigator responded to the above points and explained why this didn't change their outcome. Mr and Mr T requested an Ombudsman review their complaint.

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 broad terms, the starting position at law is that a business is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

However, in some situations, taking into account the law, regulations, guidance, standards, codes, and industry practice, businesses such as HSBC shouldn't have taken their customer's authorisation instruction at 'face value' – or should have looked at the wider circumstances surrounding the transaction before making the payment. Where the consumer made the payment as a consequence of the actions of a fraudster, it also may sometimes be fair and reasonable for the bank to reimburse the consumer even though they authorised the payment.

Of particular relevance to the question of what is fair and reasonable in this case is the Lending Standards Board's Contingent Reimbursement Model ('the CRM Code'), which HSBC has signed up to. Mr and Mr T made one payment of £25,000 in July 2020 toward their investment with H, so this was after the CRM Code came into force. As their representatives argue they were scammed by H, I've considered whether this Code applies and so they are due reimbursement.

The CRM code doesn't apply to all APP payments which ultimately result in a loss for the customer. It only covers situations where the payment meets its definition of an APP scam. The relevant definition for this case would be that Mr and Mr T transferred funds to another person for what they believed was a legitimate purpose, but which was in fact fraudulent.

I've considered the evidence available, but I can't fairly conclude that Mr and Mr T have

been the victim of a scam in line with this required definition. This means the CRM code doesn't apply to their payment and so HSBC isn't required to reimburse them under it.

Our Investigator covered in detail why they considered the payment purpose Mr and Mr T had in mind, and the purpose in which the recipient had matched. I'm in agreement with them that this was the case, I'll explain why.

It's accepted Mr and Mr T's purpose for making the payment was to invest in H and for the funds to be used towards property development. And that they were persuaded at the time, through the paperwork, this was a legitimate venture. I accept that H failed to deliver what was expected from the investment, but I haven't seen any clear evidence this was always what it intended; or that at the time of the payment, it planned to use *Mr and Mr T's* funds in a different way to what was agreed. I haven't seen persuasive evidence that H's intention was to defraud Mr and Mr T when it took their funds.

Mr and Mr T's representative has provided additional paperwork from several sources that it says evidences H was operating a scam. But as our Service has explained to it on a number of cases already, while the information provided does indicate there may have been some poor business practices and/or financial management in some areas of H, this isn't enough to say H was operating a scam. We haven't seen evidence that Mr and Mr T's funds weren't used for the intended purpose or that H took them with fraudulent intent.

Ultimately, the information we currently hold suggests that H was a failed investment venture, not a scam. The information provided doesn't evidence H had fraudulent intent when it took Mr and Mr T's funds, as required under the definitions within the CRM code. So I can't agree HSBC was wrong not to have reimbursed them under the CRM code at this time.

I appreciate Mr and Mr T are now in a position where they've lost out financially due to this investment. But I don't consider their loss is the result of any failings by HSBC.

My final decision

For the reasons set out above, I don't uphold Mr and Mr T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T and Mr T to accept or reject my decision before 8 September 2025.

Amy Osborne
Ombudsman