

The complaint

Mr L complains that HSBC UK Bank Plc ('HSBC') won't refund the money he says was lost as the result of a scam.

What happened

Mr L purchased a boat, which required work in order to be seaworthy. He found a company mentioned in an article in a yachting magazine. I'll refer to the company as X.

Mr L made contact with a director of X, who I'll refer to as W. W provided a written condition report in June 2020, which set out what work was required and costings. Mr L says W initially indicated the boat would be ready within a few months of work starting.

Between July 2020 and July 2023, Mr L made 17 payments to W totalling £49,992.67.

Mr L received multiple excuses and reasons for delays from W, and ultimately, while some work was done, Mr L says the majority of the agreed work wasn't completed.

Mr L sold the boat privately for £512, which resulted in a significant loss. So, he raised a fraud claim with HSBC. HSBC looked into Mr L's fraud claim but declined to refund him, saying he has a civil dispute with W and X.

Mr L wasn't happy with HSBC's response, so he brought a complaint to our service.

An investigator looked into Mr L's complaint but didn't recommend that HSBC refund him. The investigator wasn't satisfied that Mr L had proven that W/X took Mr L's funds with the intention to defraud him. So, the investigator wasn't satisfied that Mr L's payments were covered by the Contingent Reimbursement Model Code (CRM Code).

Mr L disagreed with the investigator's opinion and raised the following points:

- We're not treating him as a victim of fraud, despite the police referring to him as such.
- We haven't taken into account the investigations or evidence provided by external organisations who are looking into W and X. Trading Standards have referred to offenses of fraud and potentially theft.
- There have been multiple individuals all defrauded by the same company.
- We've not taken into account the significant loss Mr L has suffered in selling the boat, considering the purchase price and the amount he paid for refurbishment.
- HSBC have a reimbursement obligation under the CRM Code, unless Mr L has not achieved the threshold standard of care.
- We haven't contacted the independent authorities to get their testimony and evidence in relation to this case.

As the case couldn't be resolved informally, it was passed to me to review.

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 realise that Mr L has suffered a significant financial loss in relation to the boat. But I'm not making a finding about whether W or X owes Mr L money, rather whether HSBC can fairly be held liable for Mr L's loss. It's also worth explaining that while Mr L may have been the victim of fraud, that doesn't automatically mean that HSBC have to refund him.

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 at law is that HSBC is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

It's not in dispute that Mr L authorised these payments, although he did so not realising he was the victim of a scam.

Is Mr L entitled to a refund under the CRM Code?

HSBC have signed up to the CRM Code, which requires firms to reimburse customers who have been the victims of Authorised Push Payment (APP) scams, in all but a limited number of circumstances.

But the CRM Code does not apply to private civil disputes, for example, 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.

Also, the CRM Code defines what is considered an APP scam as, "*where the customer transferred funds to another person for what they believed were legitimate purposes, but which were in fact fraudulent*".

In order to decide whether the circumstances under which Mr L made his payments meets the definition of an APP scam, I need to consider:

- The purpose of the payment and whether Mr L thought this purpose was legitimate.
- The purpose the recipient (W/X) had in mind at the time of the payment and whether this was broadly in line with what Mr L understood the purpose to be.
- And, if I decide there was a significant difference in these purposes, whether I'm satisfied that was as a result of dishonest deception.

Mr L was making payments to W to have work completed on his boat. I haven't seen anything that suggests Mr L didn't think this was a legitimate purpose.

So, I've gone on to consider what purpose W/X had in mind and whether it was in line with what Mr L thought.

In reaching an answer on what purpose W/X had in mind, the key information is:

- X is a UK incorporated company that was set up in January 2019. Mr L says he found W/X in an article in a yachting magazine. This suggests that W/X were operating legitimately, for a period of time before Mr L made his payments. The company is now in liquidation, but there isn't any evidence to show that W/X took Mr L's funds with a different purpose in mind. Or that they didn't intend to complete the work agreed with Mr L.
- Trading Standards and the Police have said their investigations are ongoing. There is no evidence of any charges or convictions in relation to W or X. The allegations made aren't sufficient to prove that the circumstances under which Mr L made his payments meets the definition of an APP scam.

I realise that these investigations can be complex and take a significant amount of time to complete. Especially where there are multiple parties who have suffered a loss. If material new evidence comes to light at a later date, that demonstrates W/X intended to defraud Mr L when he made his payments, Mr L can ask HSBC to reconsider his claim.

- There are many reasons that a genuine company might fail and be unable to complete contracts or agreed work. This could be due to mismanagement of the company or its finances. It's also possible that the restrictions and impact of Covid could have affected X. But mismanagement of a company or its finances wouldn't meet the definition of an APP scam under the CRM Code. There needs to be clear evidence of an intention to defraud at the point the payments were made.

I realise that Mr L has paid nearly £50,000 for work to be completed on a boat which he has had to sell for £500. However, based on the evidence Mr L has provided, I'm not satisfied that he has shown W/X took his payments with a different purpose in mind, that the funds weren't used for their intended purpose (refurbishment of the boat) or that W/X set out with the intention to not complete the work. Because of this, Mr L hasn't shown that the circumstances under which he made his payments meets the definition of an APP scam, and I can't fairly hold HSBC liable for Mr L's loss under the CRM Code.

Mr L has referred to HSBC's obligations to reimburse under the CRM Code, but because I'm not satisfied that his payments are covered by it, I can't apply its provisions in relation to reimbursement.

Is there any other reason I could ask HSBC to refund Mr L?

There is an expectation for HSBC to be on the lookout for, and to protect its customers from, potentially falling victim to fraud or scams. This includes monitoring accounts and identifying suspicious activity that appears out of character. Where potential fraud is identified, I would expect HSBC to intervene and attempt to prevent losses for the customer.

I'm not satisfied that the payments Mr L made were so unusual and out of character, that I would've expected HSBC to have identified a potential risk of financial harm from fraud or intervened when the payments were made.

However, even if I was satisfied that they should've intervened, I'm not satisfied that they would've prevented Mr L's loss. I say this because I'm not persuaded that the information Mr L would've shared in response to questions HSBC might've asked, would've been concerning or meant they would've identified an APP scam risk.

W was completing work on the boat, although I appreciate it was behind schedule and excuses were being made for the delays. Also, X was a UK incorporated company which was still active when Mr L made the payments. There wasn't a notice for compulsory strike-off until April 2025, significantly after the payments Mr L made. So, based on the information available to Mr L when he made the payments, I'm not persuaded that HSBC would've been concerned or could fairly have refused to follow Mr L's payment instructions.

I'm really sorry to disappoint Mr L and I understand why he strongly believes that HSBC should refund him for the loss he's suffered. But, for the reasons given above, I'm not satisfied I can fairly hold HSBC liable.

My final decision

My final decision is that I don't uphold this complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 6 November 2025.

Lisa Lowe
Ombudsman