

## **The complaint**

Mr N complains that HSBC UK Bank Plc ('HSBC') declined to reimburse him when he says that he fell victim to a scam.

## **What happened**

The circumstances of this complaint are well known to both parties, so I will not go into every detail of what happened here. But, in summary, Mr N sent £27,000 to what he believed to be a legitimate investment with a company which I will call 'C'. C claimed to offer a social housing investment scheme. Mr N initially received returns, totalling around £2,400 from C but then the returns stopped, and he said he realised he had fallen victim to a scam.

Mr N got in touch with HSBC and asked it to reimburse his losses. HSBC declined to reimburse Mr N on the basis it thought that there was an ongoing law enforcement investigation into C, so it said it was unable to review his claim at that time. This was because the Lending Standard Board's Contingent Reimbursement Model allowed for firms to pend review of a scam claim where there was an ongoing investigation, where the result of the investigation might reasonably inform the firm's decision.

Unhappy with their response, Mr N escalated his concerns to our service where one of our investigators looked into what had happened. Our investigator recommended that Mr N's complaint should be upheld, and he should be reimbursed his remaining losses in full, plus 8% simple interest from the date his claim was declined under the CRM Code or 15 days after the claim was made – whichever was earlier.

HSBC did not agree, so the case has 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.

When considering what is fair and reasonable, I am 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 relevant time.

In broad terms, the starting position in law is that a payment service provider is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations (PSRs) and the terms and conditions of the customer's accounts. However, where the customer made the payment(s) as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the provider to reimburse the customer even though they authorised the payment(s).

The CRM Code is of particular relevance to this case. It is a voluntary code which requires firms to reimburse customers who have been the victims of Authorised Push Payment (APP) scams like this in all but a limited number of circumstances. HSBC was a signatory to the code at the time the payments in dispute were made.

HSBC have raised R3(1)(c) of The 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”.*

So, I must first consider whether this should fairly be applied in this case. If I do not think this should be applied, in order for me to conclude whether the CRM Code applies in this case, I must consider whether the payments in question, on the balance of probabilities, meet the Code’s definition of a scam. An ‘APP scam’ is defined within the Code at DS1(2)(a) as:

*“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”*

The CRM Code is also clear at DS2(2)(b) that it does not 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”*

If I conclude that the payments here meet the required definition of a scam then Mr N would be entitled to reimbursement, unless HSBC has shown that any of the exceptions set out in R2(1) of the Code apply.

The LSB has said that the CRM Code does not require proof beyond reasonable doubt that a scam has taken place before a reimbursement decision can be reached. Nor does it require a firm to prove the intent of the third party before a decision can be reached.

So, in order to determine Mr N’s complaint, I have to ask myself whether I can be satisfied, on the balance of probabilities, that the available evidence indicates that it is more likely than not that he was the victim of a scam rather than this being a failed or bad investment.

*Is it appropriate for our service to consider this matter at this time?*

HSBC are relying on the provision above at R(3)(1)(c) of The Code to pend making a decision on Mr N’s claim at this time. It points to the fact there is an ongoing police investigation into C, with no indication of when or what the outcome is going to be. I do note that the police have not said that C was an authorised push payment scam (‘APP scam’), nor confirmed whether there are funds available to be returned to investors, or what the investors’ losses are. And so I do understand to an extent why HSBC says that the outcome of this investigation will reasonably inform it whether C was operating a scam or not – and therefore whether Mr N falls within the scope of the CRM Code.

So, I have considered whether it would be appropriate to delay my decision in the interest of fairness, due to this ongoing investigation.

There may be circumstances and cases where it is appropriate to wait for the outcome of external investigations. But that is not 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 are not looking at quite the same issues or doing

so in the most relevant way.

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

I am aware that Mr N first raised his 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 do not think that delaying giving Mr N 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.

For reasons I will explain in more detail below, I do not think it is necessary to wait for the outcome of the investigation for me to fairly reach a decision on whether HSBC should reimburse Mr N under the provisions of the CRM Code. I am satisfied here is already convincing evidence to demonstrate on the balance of probabilities that those who invested with C were dishonestly deceived about the purpose of the payments they were making and that Mr N was the victim of a scam. So, it is appropriate for me to consider this complaint without further delay.

*Was Mr N the victim of a scam, as defined in the CRM Code?*

In order for me to consider whether Mr N has been the victim of a scam as defined in the CRM Code, and repeated above, I need to consider whether the purpose Mr N intended for the payments was legitimate, whether the purposes he and C intended were broadly aligned and then, if they weren't, whether this was the result of dishonest deception on the part of C.

From what I have seen and what Mr N told us, I am satisfied that he made the payments here with the intention of investing in C. I think he thought his funds would be used to invest in social housing, and that he would receive returns on the investment. And I have not seen anything to suggest that Mr N did not think this was legitimate. But I do think the evidence I have seen suggests that C did not intend to act in line with the purpose for the payments it had agreed with Mr N.

Our investigator has already laid out why they thought that this amounted to an APP scam, and so I do not intend to revisit every point in detail. But, in summary, I think it is more likely than not that this was an APP scam because having considered the available evidence I do not think that C was using the investor funds for the purpose in which they were intended, and therefore I do not consider it most likely that they were a legitimate supplier of a service. I believe their conduct went beyond simply misleading investors with regard to a legitimate investment, and the real purpose of Mr N's payments was different to what he and other investors were led to believe – due to deception. I'll summarise the key evidence below.

- Whilst I cannot go into every detail here, we have obtained C's bank statements for four known accounts. There are some transactions which would appear consistent with a company involved in some property investment totalling roughly £6,000,000.
- But C received over £20,000,000 from investors. We have calculated the average cost of a unit sold, and how many property agreements this means that C ought to have entered into. The outgoings from C's account are not consistent with the level of investment they have received and are not operating in line with what one would expect.
- C claimed to be working with numerous local authorities and supported living and

housing providers. These agreements with these bodies are how C said that it was generating the returns for investors. However, the accounts show no evidence of payments in from local authorities, supported living or housing providers. One local authority has confirmed that an invoice used by C to demonstrate a working relationship with it was forged and that it had no relationship with C whatsoever. Numerous local authorities C claimed to work with have also confirmed they have no relationship with C either.

- Our service has had sight of investment property addresses in around 100 complaints. Approximately half of the addresses are located in buildings which have confirmed they have no relationship with C. There are cases where investment property addresses remain derelict or under construction, despite the fact they are meant to be generating income already. We've seen evidence of at least six units which were sold to multiple investors.
- Around one third of the investment capital was not used for the purpose of securing and developing properties to be used for social housing. We can see that these funds went to:
  - paying commission to third parties and persons involved in operating C;
  - companies connected to persons involved in operating C;
  - cash withdrawals;
  - pay jewellers, car dealerships or finance companies;
  - purchasing of flights or restaurant bills;
  - individuals or companies, for which the purpose is unknown.
- The income from a legitimate source (though not from local authorities or housing providers) that can be seen coming into the account amounts to under £500,000. The returns paid to investors was almost £2,500,000. It is therefore clear that returns were not being generated from genuine income and therefore it is more likely than not that investment capital was used to fund the returns, which would appear to be consistent with a Ponzi scheme. This was likely done to promote further investment from existing or new investors.

So, as I am satisfied that there is sufficient evidence to find that C was most likely operating a sophisticated APP scam, I do not think that reliance on R(3)(1)(c) would be appropriate here, and so I must now consider whether a refund under the CRM Code would be fair and reasonable in the circumstances of this complaint.

#### Is Mr N entitled to a refund under the CRM Code?

As I explained above, HSBC is a signatory of the CRM Code. The Code requires firms to reimburse victims of APP scams, like the one I am satisfied Mr N fell victim to, in all but a limited number of circumstances. And it is for the firm to establish that one of those exceptions to reimbursement applies.

Under the CRM Code, a firm may choose not to reimburse a customer if it can establish that:

- The customer ignored an effective warning in relation to the payment being made
- The customer made the payment without 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

*There are further exceptions within the CRM code, but these don't apply here.*

#### Did Mr N ignore an effective warning in relation to the payments?

HSBC told our service there was no intervention or warnings provided for any of Mr N's

payments. I take from this that they are not arguing that Mr N ignored an effective warning, so I shall not comment on this further other than to say it would not be appropriate to rely on this exception to reimbursement here.

*Did Mr N make the payments without a reasonable basis for belief?*

I have considered whether HSBC could fairly rely on the exception to reimbursement that Mr N made the payments without a reasonable basis for belief. I do not think it would be fair or reasonable for them to do so. I say this because:

- Mr N was introduced to the investment opportunity with C by some known associates from the property investment circuit, who were well known and had a large online and social media following. He felt they were seasoned professionals who could be trusted in their recommendations.
- Mr N understood that C were working with 28 local authorities and 25 supported living and housing providers, and was partnered with organisations with major mandates with the Home Office and Ministry of Justice. This provided C with a sense of legitimacy.
- Mr N spoke with the directors of C and was also went to their offices. He also went on a site visit to one of their large blocks of flats which they said they had just completed on, for which they said there was already a deal in place with the Home Office. He said he was reassured by the apparently successful and large scale operations that C was conducting. He also found meeting them and seeing tangible assets such as buildings and offices furthered his belief that this was a legitimate investment.

So, all things considered, I do not think that HSBC have shown that any exceptions to reimbursement should apply here, and so I think that a refund in full (minus the returns Mr N received) is the fair and reasonable conclusion to this complaint.

**Putting things right**

In order to put things right, HSBC must:

- Reimburse the remaining losses (minus the returns Mr N received); and
- Pay 8% simple interest from the date they declined to consider Mr N under the CRM Code, or 15 days from when the original claim was made – whichever was earlier.

As there are ongoing investigations going on into C it is possible Mr N could 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 rights to all future distributions under this process before paying the award.

**My final decision**

I uphold this complaint and require HSBC UK Bank Plc to reimburse Mr N in line with what I have said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 24 February 2026.

Katherine Jones  
**Ombudsman**