

The complaint

Mrs M complains HSBC UK Bank Plc won't refund the money she says she lost to a scam.

What happened

In July 2020, Mrs M entered a contract with a company, "V", which she understood offered an investment syndicate. She found out about V from her husband (Mr M) who been investing with them since 2018 – having himself been recommended by a friend.

Between July 2020 and May 2021, Mrs M sent almost £19,000 to "S", the director of V, to buy shares to invest in the syndicate. She also received credits of just over £10,000 back from S between December 2020 and April 2022.

In mid-2024, Mrs M reached out to HSBC to report that she believed V had been a scam. She and Mr M explained S had become evasive about paying returns and they had been in touch with the police – as had other victims. HSBC said the returns she received meant this was a civil matter rather than a scam, so it didn't agree to refund her. Unhappy with this outcome, Mrs M complained and referred the matter to our service.

Our investigator was persuaded Mrs M had been scammed and didn't think any exceptions to reimbursement applied under the terms of the Contingent Reimbursement Model (CRM) code. They recommended HSBC refund Mrs M's outstanding loss plus 8% interest from the date it declined her claim.

HSBC has appealed the investigator's outcome. It acknowledges there is an ongoing police investigation about V and says it would consider its liability if that concluded the operation was a scam. But at this point, given the returns Mrs M received, it believes V was a legitimate investment opportunity which went wrong.

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.

For the following reasons, I've decided to uphold it and to direct HSBC to refund Mrs M's outstanding fraudulent loss – plus interest from the date it declined her claim.

It's accepted Mrs M made the payments she is now disputing. In broad terms, the starting position in law is that firms are expected to process its customers authorised payment instructions without undue delay – meaning Mrs M is presumed liable for her payments in the first instance.

However, I'm mindful Mrs M says she was tricked into making these payments by a scammer. There are therefore some further considerations relevant to whether it would be fair to expect HSBC to refund her.

Of particular relevance here is the CRM code, which HSBC was a signatory of at the time of the payments. This code required firms to reimburse customers who fell victim to APP scams in all but a limited number of circumstances. But it doesn't cover private civil disputes – such as where a customer pays a legitimate supplier for goods or services but hasn't received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier. So, the CRM code wouldn't apply to a genuine investment scheme that failed.

HSBC says Mrs M's dispute isn't covered by the CRM code as this matter is a private civil dispute rather than a scam. I therefore need to consider, on balance, whether the payments in question meet 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 Mrs M intended to pay S, and that she believed she was doing so for a legitimate purpose (to invest). So, what I've considered is whether S's intended purpose was broadly aligned with Mrs M at the time the payments were made – and, if not whether this was the result of a dishonest deception by S.

We've received bank statements for the account Mrs M paid (as well as others held by S and V). And these suggest Mrs M's payments weren't being used in the intended way. Rather, the main account activity is payments in from, and out to, lots of individuals. S also withdrew a large amount, with no clear and regular pattern, which appears to have mostly been used for day-to-day spending.

There were only limited instances of funds being sent on to the investment platform S told investors V used. I can't see how the funds were used on that platform, but the payments to it don't appear to correlate with the payments Mrs M – and others – sent S, or how they understood their funds would be invested. From what I've seen, it appears unlikely any of Mrs M's funds were invested, on her behalf/for her benefit, in line with the agreement she had with V – or that S ever intended to do this.

While Mrs M did receive credits back from S, it doesn't appear these were funded from genuine returns on the money she had paid and understood had been invested. Rather, it looks as though these credits were funded by the payments in from other individuals. It appears S was effectively operating a Ponzi scheme, paying returns to persuade victims V was in fact operating legitimately so they would keep paying into the supposed investment syndicate – and to deter them from taking action against S or the company.

When reporting the scam to HSBC, it appears Mr and Mrs M were under the impression some of the funds they were investing were being held back/held separately to cap the level of loss. But it doesn't appear the funds Mrs M paid were separated in the way she was led to expect. And neither V nor S were regulated – as would be required for them to facilitate online trading in the UK. This further indicates dishonest deception by S.

Overall, the information our service has seen about how V was operating persuades me S dishonestly deceived Mrs M and didn't intend to act in line with the purpose of the payments he had agreed with her. I'm therefore persuaded the circumstances here meet the CRM code's definition of a scam.

The starting position under the code is that a firm should refund victims of APP scams – as I've determined Mrs M was. However, there are some exceptions under the rules which firms can choose to rely on to decline reimbursement.

Of relevance here is that a firm can choose not to reimburse a customer if they ignored an effective warning. Or, if the customer 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. In any event, HSBC hasn't sought to establish whether any of the relevant exceptions apply. But for completeness I've considered this – and I'm persuaded it wouldn't be fair for HSBC to apply these exceptions in Mrs M's case.

HSBC hasn't demonstrated that any warnings were shown to Mrs M when she made these payments, let alone that, if any were shown, they met the standards set by the CRM code to be deemed effective. If HSBC was to rely on this exception to decline reimbursement, it would additionally need to show that an effective warning would have had a material effect on preventing the APP scam from taking place – which seems unclear here given the nature of the scam. So, I'm not persuaded an exception could fairly be applied due to Mrs M ignoring an effective warning.

It's clear Mrs M intended to pay S. And I'm persuaded she did so with a reasonable basis for believing he, and V, were legitimate – and that she was paying them for genuine investment services. She had been introduced to V by her husband, who had been investing since 2018 – and had received returns. They had other friends with similar experience investing with V. Mrs M then received returns herself. V was also properly registered on Companies House; it had been registered since 2017 and its records were up to date at the point of Mrs M's payments. I think all of this made the operation appear very convincing.

As HSBC hasn't established any exceptions to reimbursement apply under the CRM code, I think it should refund Mrs M's outstanding loss in full.

Putting things right

To put things right, HSBC UK Bank Plc must refund Mrs M the disputed payments she sent S as part of the scam, minus the credits she received back from him (and any other sums already recovered or returned to her from this scam). It should pay 8% simple interest per year on this amount, running from the date it declined her claim to the date of settlement.

If HSBC UK Bank Plc considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs M how much it's taken off. It should also give Mrs M a tax deduction certificate if she asks for one, so she 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 from the police investigation and any criminal proceedings that may follow 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 have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 28 October 2025.

Rachel Loughlin
Ombudsman