

The complaint

Mr M complains that HSBC UK Bank Plc (“HSBC”) won’t reimburse payments he made as part of a scam.

What happened

The background to this complaint is well known to both parties, so I won’t repeat it in detail here. But in summary, I understand it to be as follows.

Mr M invested in two different holiday lodges in Scotland, costing £54,950 and £49,950 respectively, between October 2021 and April 2022. The investment was with a company that will be further referred to as “LB”.

As part of the investment, Mr M would receive a quarterly payout, which was rental income for the holiday lodges, with LB buying back the homes after 5 years at an escalated price of what Mr M paid.

Mr M received returns the contracted returns until April 2024, totalling £19,591.86. Then, in July 2024, Mr M received correspondence from LB advising that they were having difficulties with external partners and that the quarterly payments would be late. Mr M received further correspondence in September 2024 advising that the issue was still ongoing and that they wouldn’t be able to pay any further contractual payments until the issue had been resolved.

Mr M raised a complaint with HSBC in 2023, requesting reimbursement of his losses on the basis that he’d been the victim of a scam. HSBC looked into the matter but declined to offer and refund to Mr M on the basis that this was a failed investment rather than a scam. Unhappy with this response, Mr M, raised his complaint with our service via a professional representative.

An investigator looked into Mr M’s complaint but did not uphold it. They explained that they didn’t believe that HSBC had acted incorrect in declining Mr M’s complaint on the basis that it was a private civil dispute and that there wasn’t enough evidence to show that his payments were covered under the Contingent Reimbursement Model (CRM) Code.

Mr M disagreed with the investigator’s assessment. Mr M provided detailed responses as to why he didn’t agree which sought to demonstrate that the company, linked companies and the directors had acted fraudulently and that he’d been the victim of a scam.

As the complaint couldn’t be resolved by the investigator it has been passed to me for 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.

Mr M has provided detailed submissions to our service in relation to this complaint. In keeping with our role as an informal dispute resolution service, I will focus here on the points I find to be material to the outcome of Mr M's complaint. This is not meant to be a discourtesy to Mr M and I want to assure him I have considered everything he has submitted carefully.

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.

In broad terms, the starting position at law is that a bank such as 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.

Here it's not in dispute that the payments were authorised, so the starting position is that HSBC isn't liable for the transactions.

There are, however, some situations where we believe that businesses, taking into account relevant rules, codes and best practice standards, 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.

HSBC also has a duty to exercise reasonable skill and care, pay due regard to the interest of its customers and to follow good industry practice to keep customer's accounts safe. This includes identifying vulnerable consumers who may be particularly susceptible to scams and looking out for payments which might indicate the consumer is at risk of financial harm.

Taking these things into account, I need to decide whether HSBC acted fairly and reasonably in its dealings with Mr M.

Has Mr M fallen victim to a scam?

HSBC are a signatory of 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.

The relevant part of the CRM Code definition of an APP scam requires that the payment was made to: *“another person for what they believed were legitimate purposes but which were in fact fraudulent.”*

The Code also explains 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’.*

In order to reach my decision on this complaint, I've considered the purpose for which Mr M made, and LB received, the payments. And, if there is a significant difference in these purposes, whether I can be satisfied that this difference was as a result of dishonest deception.

It's clear that Mr M made the payments in order for construction and renting of holiday homes at sites in Scotland. So, I've gone on to consider what purpose LB had in mind and whether that was in line with the purpose Mr M made the payments.

In reaching an answer on what purpose LB, and its linked companies, had in mind, the key information I've considered is as follows:

- LB owned sites and either had, or sought, planning permission to build and develop holiday homes on these sites. This suggests that there was a genuine intention of LB to build and/or develop the sites.
- The evidence available doesn't demonstrate that investors' funds were obtained fraudulently or solely for the personal benefit of the directors. I've been provided with no evidence to show that the funds weren't, in the main, used for business purposes.
- Many submissions have been provided, and allegations made, regarding representations made to investors prior to their investments. Whilst some mis-representations may have been made, by both LB and the company that introduced Mr M to the investment, I don't think this speaks overall to the intention of the companies involved and whether they had simply sought to defraud their investors. Furthermore, mis-representations made prior to an investment wouldn't automatically mean that Mr M's payments would meet the definition of an APP scam; which is especially true for any mis-representations made by parties other than LB.

It's clear that there are large and complex ongoing investigations by both the administrators of the companies involved as well as the police. Given the breadth of these investigations, it's difficult for me to be certain that all the available evidence has been obtained from all parties and that all the information relevant to this complaint has been reviewed prior to the issuance of my decision. Furthermore, these investigations haven't yet drawn definitive conclusions as to whether the companies, or their directors, have acted fraudulently. But, for completeness, I should state that fraudulent activity by the companies or their directors may not automatically mean that Mr M's payments would then meet the definition of an APP scam, given any given activity found to be fraudulent may be unrelated to the procurement of investors' funds and instead relate to other activities carried out by the companies.

I have every sympathy for Mr M as he has lost a substantial amount of money and has provided a lot of detailed information and evidence relating to his complaint. I want assure him that I've considered all of the evidence and arguments put across, but I'm not persuaded that this was, more likely than not, an APP scam. Many businesses and investments fail and enter administration for genuine reasons, and not because they were set up to defraud and scam people. I believe that to be the case in this instance.

Ultimately, Mr M made payments towards a holiday lodge rental investment and the evidence presented to our service doesn't sufficiently demonstrate that LB didn't have the intention of carrying out and completing the developments at the time of the payments. Because of this, I'm not satisfied that Mr M's claim meets the CRM Code's definition of an APP scam.

Lastly, I've considered whether HSBC could've done any more at the time of the payments in order to prevent Mr M's loss.

I've not seen evidence to suggest that HSBC intervened and discussed the payments with Mr M prior to releasing them. But, even if HSBC had discussed the payments with Mr M prior to their release, I'm not persuaded that the information he'd have presented would've suggested that he might be at risk of financial harm. This is based on the vast and detailed information available about LB at the time of the payments. So, I can't fairly say HSBC could've prevented Mr M's loss at the time.

Overall, I'm not persuaded that Mr M has fallen victim to an APP scam, based on the evidence available. I've no doubt that this will be extremely disappointing to Mr M, given the impact this situation has had on him, but I'm unable to say that HSBC are liable to reimburse his loss. Should any material new evidence come to light at a later date, for example from the police or the administrators, Mr M can ask HSBC to reconsider his claim. But, as it stands, I can't fairly say HSBC should reimburse his loss under the CRM Code.

My final decision

My final decision is that I do not uphold this complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 12 November 2025.

Billy Wyatt
Ombudsman