

## Complaint

Mrs A complains that HSBC UK Bank Plc didn't reimburse her after she reported falling victim to an investment scam.

## Background

In 2021, Mrs A became aware of an opportunity to invest in a company, which I will refer to as L. L had entered into a joint venture with another business to develop a site and provide luxury holiday lodges. She was told that her investment would be linked to specific lodge plots on the site, would generate a return of 10% per year and, after five years, the stake would be repurchased at 110% of its original value. She invested £54,950 in April and May 2021.

She did receive returns totalling around £14,000 up until April 2024. However, shortly afterwards, the companies involved in the project entered administration. Mrs A concluded that she must have fallen victim to an investment scam. She notified HSBC but it didn't agree to pay a refund. It said that it didn't think she was the victim of a scam. Instead, it thought this was a private civil dispute.

Mrs A wasn't happy with that response and so she referred her complaint to this service. It was looked at by an Investigator who didn't uphold it. Her professional representatives disagreed with that outcome and provided further evidence, which they said demonstrated that the investment was fraudulent. They explained that administrators of the company believed the scheme displayed hallmarks of a sophisticated investment fraud. They also highlighted that large sums of investor money had been transferred to companies linked to L and its director, and these funds were now unaccounted for. Furthermore, they argued that the investment was misrepresented as "*Fully Asset Backed*," suggesting investors would own land and a lodge, when L knew this was not true.

Despite these points, the Investigator maintained that there was insufficient evidence to conclude that L was operating a scam. The administrator's investigation was still ongoing, and it was not yet clear how all investor funds had been used. While fraud hadn't been ruled out, there were other explanations for what had happened here, including maladministration and generally poor commercial practice. Without more evidence, it was not possible to conclude that L intended to scam investors. Finally, although there was some indication that sales agents made misleading claims about land ownership, there was insufficient evidence that L itself acted dishonestly or intended to defraud investors.

Mrs A's representatives disagreed. They said they would seek further information to support this case, but believed there was already enough evidence to show that L misled investors about land ownership, and that this was not limited to third-party introducers.

As no agreement could be reached between the parties, the case has now been passed to me to consider and reach a final decision.

## Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Under the relevant regulations, the starting position is that customers are responsible for payments they have authorised. Since Mrs A authorised the payments in question, she is presumed liable for them. However, this is not the end of the matter. Banks are also expected to monitor account activity for signs of potential fraud. If a bank identifies indicators of risk, such as a payment being unusual or out of character, it should respond to that risk in a proportionate way.

In addition to that, HSBC was a signatory to the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code). Signatories to the CRM Code were generally required to reimburse customers who fell victim to authorised push payment (APP) scams, except where a limited range of exceptions applied.

However, the expectations I've described above aren't engaged unless I'm persuaded that Mrs A did fall victim to an APP scam. The CRM Code doesn't apply in all cases. For Mrs A to benefit from its provisions, what happened here has to meet the relevant parts of its definition of an APP scam. In other words, these payments must have been ones where Mrs A *"transferred funds to another person for what [she] believed were legitimate purposes, but which were in fact fraudulent."*

The CRM Code is also explicit that it doesn't apply to private civil disputes. It says:

*"This Code 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."*

The first matter, therefore, that I have to decide is whether the provisions of the Code apply at all in view of the above. To find that this was fraud, I'd expect (a) there to be a misalignment between the purpose for which Mrs A made the payment and the purpose for which it was procured by L; and (b) that difference to have been due to dishonest deception on the part of L.

The key consideration here is what the intentions were of the directors of L. I obviously can't know what they were for sure, so I have to look at what the other available evidence shows and use that to infer what their intentions likely were. The threshold for establishing fraud is a high one. In criminal proceedings, the standard of proof is *"beyond reasonable doubt,"* but this service assesses cases using the civil standard of proof, which is based on the balance of probabilities. Under this standard, a finding of fraud must be more likely than not. Even so, the bar remains high. It is not enough for fraud to be a compelling or persuasive explanation, nor is it sufficient for it to be the most likely among several possible explanations. It must be more probable than the opposite conclusion — i.e., that fraud did not occur.

I've considered the evidence submitted carefully and I'm not persuaded that it meets the required threshold. I'll explain why.

It appears Mrs A made the payments to invest in the development of a luxury holiday lodge resort. In return, she expected annual returns for five years and an additional 10% profit on her capital in year five. It's clear that L failed to deliver what it promised. As a result, Mrs A has lost her initial investment and not received the expected returns. However, I've not seen sufficiently persuasive evidence that this was L's intention or that it planned to use Mrs A's funds in a manner that differed from what they'd agreed.

The evidence suggests L and its associated companies broadly shared the same purpose in receiving funds. In simple terms, L:

- Identified the site to be developed and had, or sought, planning permission to build holiday lodges.
- Formed relationships with other companies apparently to carry out the development.
- Installed lodges that were being let as intended and had received positive reviews.

Overall, while L's project wasn't successful, it appears to have started developing the land and letting lodges as promised. On the face of it, this points to a legitimate business that ultimately failed, rather than a scam. To conclude otherwise, I would need clear and compelling evidence showing, not only that L acted contrary to investor expectations, but that its purpose was fraudulent.

Mrs A's representatives argue that L misrepresented the investment, leading investors to believe they would own the land on which the lodges were built, and possibly the lodges themselves. They say investors were induced to invest under the false impression their funds were secured against property, when L knew this wasn't true. I've reviewed the evidence submitted on Mrs A's behalf. While most of it doesn't relate directly to her agreement with L, there is evidence that investors were generally given misleading information. Some statements were inaccurate or misleading and could reasonably have been understood as suggesting investors would have proprietary rights in the land or lodges.

However, for the most part, those statements weren't made specifically by L to Mrs A. Instead, they seem to have been made by other connected parties, such as selling agents. I accept selling agents may have made them dishonestly to mis-sell the investment, but they could also have resulted from misunderstanding or negligence. In any case, despite the clumsy and misleading wording, I'm not aware that Mrs A intended to use the lodge personally or sell it outside the compulsory buy-back terms at the end of the agreement. The marketing material I've reviewed generally makes it clear that investors had no occupancy rights and could not terminate the agreement before the fifth-year buy-back. Overall, I'm satisfied that Mrs A's purpose in making these payments to L was to invest in the lodge plots with the expectation of earning a return on her capital from the site's development.

Mrs A's representatives have highlighted that there was a legal dispute between L and one of its connected companies regarding the interpretation of their joint venture agreement. Following a hearing on that dispute, a judge imposed an interim injunction. However, there is evidence suggesting other customers made investments after the injunction came into effect, even though L must have known that its project couldn't have been completed. While this isn't the case with Mrs A's investment, her representatives suggest that this conduct is illuminating in respect of L's intentions here.

I've considered that argument carefully, but I think there is a significant degree of speculation here. The injunction imposed restrictions on one of the companies connected to L, not on L itself. It's unclear whether L could have known that, in light of the litigation, the project was undeliverable. It may well have believed that work could resume once the associated dispute was resolved. In practice, the linked company entered administration before any further action concerning the injunction was taken. I understand the point Mrs A's representatives are making, but there are simply too many unknowns and uncertainties for me to conclude that this evidence persuasively demonstrates anything about L's intentions when Mrs A's first investment was made back in 2021.

I appreciate there have been questions about how investor funds were used (especially given the development was not completed as expected) and much is still unknown. But in the absence of clear evidence, I cannot safely conclude that investor funds weren't used as intended. While I appreciate the administrator has raised some concerns that the investment had some characteristics of a "*possible fraud*," he also made it clear that he did not have a complete picture of where funds had gone or how they were used. He noted the need for a much wider investigation, involving various associated companies, to gain a true understanding of how investor funds were spent. Without all the relevant information, the administrator could only speculate about the possibility of fraud. This full information about how investor funds were used is still unavailable, and as such, I am in no better position than the administrator to conclude that it is more likely than not an APP scam.

Likewise, I could not have expected L to conclude it was a scam at the time Mrs A made her claim. Ultimately, Mrs A made payments to L as part of a holiday lodge rental investment,

and the evidence presented to our service doesn't sufficiently demonstrate that L 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 Mrs A's claim meets the CRM Code's definition of an APP scam, and so I can't conclude HSBC acted unreasonably in refusing to reimburse her under the CRM Code.

I acknowledge the complexity of this case. I'm aware that multiple investors have brought claims that they lost money after investing with L and associated companies. I'm also aware there are other interested parties, including administrators and the police, who are currently conducting various reviews and investigations. The timelines and possible outcomes of those investigations are currently unknown. I'm therefore conscious that new information may become available at some point in the future, which may shed more light on the situation than is currently known. But I can only conclude this case based on the information that is currently available to me.

### **Final decision**

For the reasons I've set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 6 March 2026.

James Kimmitt  
**Ombudsman**