

The complaint

Mr G complains that HSBC UK Bank Plc ('HSBC') hasn't refunded the money he believes he lost to an authorised push payment ('APP') investment scam.

Mr G referred his complaint to this service with the help of a professional representative. However, for ease of reading, I will refer to Mr G throughout this decision, even when referencing what his representatives have said on his behalf.

What happened

The circumstances of the complaint are well-known to both parties. So, I don't intend to set these out in detail here. However, I'll provide a brief summary of what's happened.

In April and May 2021, Mr G made a number of faster payments, totalling £64,950, as part of an investment with a business, which I'll refer to as 'Company B'.

Mr G had come across the investment online and had liaised with a broker (which I'll call Broker A) about the opportunity. Mr G was then largely corresponding with other firms which I'll call 'Company A' and 'Company L' which gave him detailed information about, and instigated the investment, on Company B's behalf. Although Mr G's investment agreement was with Company B, the faster payments were sent to Company L which had been set up as a result of the joint venture between Company B and Company A.

Mr G was led to believe that his investment capital would be used towards the purchase of a 2-bedroom holiday lodge, to be sited on a leisure park in Scotland. Company B, as the leisure park developer, would then market and rent out the holiday lodge to holidaymakers, generating an income.

Mr G's agreement with Company B said he would receive an annual return of 8% of his investment capital (totalling £5,196 per year), paid quarterly, for a period of five years. After the five-year agreement elapsed, there was a compulsory buyback clause which meant Company B was due to buy back the holiday lodge from Mr G for £71,445 (which was an additional 10% on what Mr G had paid for the lodge originally).

Between July 2021 and April 2024, Mr G received 12 payments (returns) from Company L, totalling £14,774.34 (paid into his son's account). However, no further returns have been paid to Mr G. There is an ongoing police investigation which involves Company A and "several associated organisations", and some other connected businesses have entered administration. Mr G now believes he's fallen victim to an APP scam.

Mr G reported the situation to HSBC and asked for a refund. HSBC considered Mr G's claim but declined to reimburse him as it considered the matter was a civil dispute between the parties. Mr G made a complaint, but HSBC reiterated its decision not to refund his loss. Unhappy with HSBC's response, Mr G referred his complaint to this service.

Our Investigator considered the complaint but didn't uphold it. In their opinion, there wasn't enough evidence to conclude that the investment scheme was a scam and so our Investigator didn't think HSBC could fairly be held responsible for reimbursing Mr G's loss.

Mr G didn't accept our Investigator's opinion and presented further evidence that he felt demonstrated the investment opportunity was in fact fraudulent.

Our Investigator explained why, despite the further evidence presented, they were still not persuaded there was sufficient evidence to reach a conclusion that the companies involved were operating a scam.

Mr G remained in disagreement, and his representative said they would make further enquiries to obtain relevant account information to show that investor money wasn't used for the intended purpose. They also stated that they believed there was already sufficient available evidence to prove that investors had been misled with the promise of security for the investment by way of land ownership, and that this did not just come from third party introducers.

As an agreement couldn't be reached, the complaint 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.

First, Mr G's representatives were granted an extension to provide additional evidence to demonstrate how investor funds had been used. That deadline has now passed and to date the relevant account statements have not been provided. In the circumstances, taking into account the time both parties have been afforded to provide evidence, I don't think it is appropriate to delay the resolution of this case any further. Although, as I'll explain below, should further relevant evidence come to light in the future, Mr G can ask HSBC to reconsider his claim under the CRM Code.

Mr G has made some detailed submissions in support of his complaint. I've read and considered everything he's sent in, but I don't intend to respond in similar detail. I'm very aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I acknowledge the complexity of this case. I am aware that multiple investors have brought claims that they lost money after investing with the companies connected to the investment. I'm also aware there are other interested parties, including liquidators and the Police, who are currently conducting various reviews and investigations; the timelines and outcomes of which 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. I do not think it would be in the interest of fairness to delay reaching an outcome in this case in the hope of receiving further evidence at some unspecified date in the future which may impact my findings.

Should materially new evidence come to light, Mr G would be entitled to ask HSBC to reconsider his claim under the CRM Code, and he could then refer any resulting complaint to the Financial Ombudsman should the need arise.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, 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 G made the disputed payments. So, the payments were authorised and under the Payment Services Regulations, the starting position here is that Mr G is responsible for the payments (and the subsequent loss) despite the payments being made as the result of an *alleged* scam.

At the time Mr G made the disputed faster payments, HSBC was signed up to the Lending Standards Board's Contingent Reimbursement Model ('CRM') Code. The CRM Code provided additional protection from APP scams, but the CRM Code didn't apply to every APP which ultimately resulted in a loss for a customer. For Mr G's claim to be considered under the principles of the CRM Code, I'd need to be persuaded that it applies in his circumstances.

The CRM Code can only apply to Mr G's faster payments if it meets the CRM Code definition of an APP scam. The relevant definition for this case would be that Mr G transferred funds to another person (or company as is the case here) for what he believed were legitimate purposes, but which were in fact fraudulent.

Based on the evidence currently available, I'm not persuaded it's most likely that Mr G's been the victim of an APP scam. As a result, I've decided not to uphold his complaint. I'm sure this outcome will be disappointing for Mr G, so I'll explain why.

The circumstances of Mr G's complaint are complex, and I accept he has provided a considerable amount of evidence to support his belief that he's been scammed. I also appreciate that some of the evidence does demonstrate some concerns about the investment and how it was sold to him.

I'm aware that our Investigator provided a detailed description of the available evidence when they informed Mr G that they didn't think he'd lost money to an APP scam. Our Investigator has also responded, in detail, to the arguments and evidence Mr G has submitted since they issued their view. So, rather than repeat what our Investigator said, I've focused on what I consider to be the key pieces of evidence when deciding this complaint.

The key question I must answer is whether it is more likely than not that the companies involved in the investment scheme intended to scam Mr G at the time he made the disputed payments. I appreciate Mr G feels very strongly that he has been the victim of a scam, and I accept it's possible that he has been. However, it's also possible that Mr G's loss is the result of a genuine investment opportunity that ultimately failed.

The development of holiday lodges (including the holiday lodge Mr G's investment was intended to be used towards), on two sites in Scotland, was a joint venture between Company A and Company B. It would appear that Company L, the business that received Mr G's faster payment, was incorporated to facilitate the joint venture, by receiving investors' funds and distributing these amongst the other companies involved in promoting/selling the investments and carrying on work towards the delivery of holiday lodges.

Company A owned the sites it led investors to believe it was intending to develop, with Company B being the developer. And one of those sites (the same site where Mr G believed the holiday lodge he was financing would be sited) is operational. Holiday lodges have been delivered at the site and are available to be rented out by the general public. So, it would appear that investors' funds have been used towards the intended purpose of making the site operational, which gives the impression that there was an alignment between Mr G and the companies as to the purpose of his payments at the time the payments were made.

Mr G says the administrator of one of the companies involved in the investment said the scheme resembled an investment scam. I've reviewed the administrator's comments, and I accept they remarked that there were "*hallmarks of a possible fraud*" and that a "*much wider investigation is needed...to get a full picture*". The administrator's investigation hasn't concluded, and the remarks were made without seeing all the evidence and they are not the final conclusions. So, I don't find this information to be persuasive in determining that Mr G has been the victim of an APP scam.

It's possible that investors' funds haven't been used towards the intended purposes. I appreciate Mr G's representatives are seeking a court order to try and obtain further information. However, this means the allegation made isn't currently supported by evidence and in the absence of clear evidence, I cannot safely conclude that investor funds weren't used as intended.

I acknowledge that there are issues which have quite rightly caused concern about how Company L and related companies were operating. Specifically, around what investors were told prior to investing, and where the funds sent to Company L ultimately ended up. But while it is possible the basis of the investment was deliberately misstated to coerce prospective investors into an investment that would never be fulfilled, it could equally be due to poor business practice and/or administrative errors. And ultimately, I don't think I can safely determine which is more likely, based on the evidence that is currently available to me. I'm satisfied that Mr G's purpose in making payments to the investment was to get a return on his investment capital, which would be generated from the development of the holiday lodge site. As I have set out above, the evidence presented in support of this complaint does not sufficiently demonstrate that the companies did not intend to develop the site(s) as advertised, with the profits being returned to investors as agreed.

Unfortunately, there appears to have been a serious breakdown in the relationship between Company B and Company A, which has involved court action, with the directors of both businesses making allegations about the other's conduct – and it's possible that this is the reason the investment ultimately failed, rather than it being because of the result of a scam.

Ultimately, Mr G made payments towards a holiday lodge rental investment and the evidence presented to our service doesn't sufficiently demonstrate that the companies didn't have the intention of carrying out and completing the developments at the time of the payments.

So, I'm not currently persuaded I can fairly conclude that Mr G has been the victim of an APP scam as defined by the CRM Code, which means I can't apply the principles to Mr G's complaint.

As mentioned, there are ongoing external investigations (including by the Police) into the companies involved in Mr G's investment. And it's possible that once those investigations have concluded, evidence may become available which demonstrates investors' funds haven't been used for the intended purpose and that Mr G has, more likely than not, been the victim of a scam. Should that happen, Mr G can ask HSBC to reconsider his claim.

I appreciate Mr G has suffered a significant loss – and I have natural sympathy for him. However, based on the evidence currently available, I'm not persuaded HSBC is responsible for reimbursing him as I can't currently say his loss is, more likely than not, the result of an APP scam.

My final decision

For the reasons explained above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 13 March 2026.

Matthew Horner
Ombudsman