

The complaint

Mr and Mrs A complain HSBC UK Bank Plc (“HSBC”) has declined to offer them a refund after they fell victim to a scam.

What happened

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

In September 2024, Mr and Mrs A made a payment totalling £13,000 from their HSBC joint account to what they believed to be a social housing investment scheme being offered by a company I will refer to as “C”.

Mr and Mrs A had been told that their funds would be used towards the purchase and refurbishment of properties which would then be occupied by social housing tenants. The profits would then be shared between C and its investors.

Mr and Mrs A did not receive any returns on their investment and so they began to research C online. Having discovered further information, Mr and Mrs A became concerned they’d been the victims of a scam and so they raised a complaint with HSBC and requested it reimburse their losses.

HSBC looked into Mr and Mrs A’s complaint but declined to reimburse them on the basis that they were awaiting industry guidance on how to proceed with matters in regard to C. HSBC also said they felt this was most likely a civil dispute between Mr and Mrs A and C as the information currently available suggested C was operating a high-risk investment scheme that had ultimately failed.

Unhappy with this response, Mr and Mrs A referred their complaint to this service where one of our investigators looked into things.

Our investigator upheld the complaint in full on the basis that they were satisfied there was enough information to show Mr and Mrs A had been the victims of a scam and so they recommended HSBC refund Mr and Mrs A’s losses in full.

HSBC disagreed with the investigator’s assessment and provided a detailed response as to why it thought it was inappropriate for this service to consider Mr and Mrs A’s complaint, why it didn’t think there was enough evidence to safely conclude C was operating a scam and why it felt an award of 8% simple interest was unreasonable.

HSBC’s arguments didn’t change the investigators mind and as an informal agreement could not be reached the case has been passed to me for a final 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.

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.

Is it appropriate for me to determine this complaint now?

Firstly, I have considered whether it would be appropriate to delay my decision in the interests of fairness, as I understand that the police investigation into C is still ongoing.

There may be circumstances and cases where it's appropriate to wait for the outcome of external investigations and/or related court cases. But that isn't 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 aren't looking at quite the same issues or doing so in the most helpful way. I'm conscious, for example, that any criminal proceedings that may ultimately take place might concern charges that don't have much bearing on the issues in this complaint; and, even if the prosecution were relevant, any outcome other than a conviction might be little help in resolving this complaint because the Crown would have to satisfy a higher standard of proof (beyond reasonable doubt) than I'm required to apply (which is the balance of probabilities).

In order to determine Mr and Mrs A's complaint, I have to ask myself whether, on the balance of probabilities, the available evidence indicates that it's more likely than not that Mr and Mrs A were the victims of a scam rather than a failed investment. But I wouldn't proceed to that determination if I consider fairness to all parties demands that I delay doing so.

I need to bear in mind that, as HSBC has pointed out, this service exists for the purpose of resolving complaints quickly and with minimum formality. With that in mind, I don't think delaying giving Mr and Mrs A 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 the reasons I discuss further below, I don't think it's necessary to wait for the outcome of the police investigation for me fairly to reach a decision on whether HSBC should reimburse Mr and Mrs A under the provisions of the CRM Code. Further to this, and for the reasons I discuss further below, I don't think it reasonable for me to dismiss this complaint as I don't agree with HSBC that dealing with this complaint seriously impairs the effective operation of our service.

Does the evidence show Mr and Mrs A have 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 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”.

The Code also allows a firm to delay its decision if there is an ongoing statutory investigator taking place, which may inform the firm’s decision. R3(1)(c) in the CRM Code sets out that:

“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.”

In this case, when Mr and Mrs A raised their complaint with HSBC it declined to give an outcome under the Code on the basis that it was waiting for industry guidance. However, it also went on to say that believed Mr and Mrs A’s circumstances most likely amounted to a civil dispute with C. So, I’ll address both points as part of this decision.

In deciding this complaint, I’ve carefully considered whether it was fair and reasonable for HSBC to rely on R3(1)(c) and delay making a reimbursement decision. In reaching these conclusions I’ve thought about whether there is currently enough evidence to decide that the payment Mr and Mrs A made was the result of an APP scam.

In order to determine whether the CRM Code’s definition of an APP scam applies to Mr and Mrs A’s payment, I’ve considered the purpose for which Mr and Mrs A made the payment and the purpose C received the payment. 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 is not in dispute that Mr and Mrs A made the payment with the intention of investing in a social housing scheme with C. So, I’ve gone on to consider what purpose C most likely had in mind and whether that was in line with the purpose Mr and Mrs A had in mind.

C’s accounts indicate approximately £6,000,000 was spent in a manner that appears consistent with property development. However, the company also received around £20,200,000 from investors. Based on its standard unit price of £13,500, this would mean that C entered roughly 1,500 property agreements. The recorded outgoing payments do not align with the costs typically associated with securing rent, refurbishments, and furnishings for this number of property agreements.

C claimed to hold contracts with local authorities, which would have been necessary to deliver on its investor commitments. Yet, beneficiary statements show no incoming payments from local authorities or housing providers. Furthermore, several local authorities confirmed they had no working relationship with C. One authority even verified that an invoice C presented as evidence of such a relationship was a forgery. Additionally, a director listed on Companies House was removed after it was discovered their identity had been stolen and they had no connection to C. These facts strongly suggest, and support the allegation of, dishonest deception by C.

Our service has reviewed evidence showing that at least six units were sold to multiple investors. This is based on complainants providing property addresses they believed their

investments were linked to, across roughly 100 complaints. In about half of these cases, the addresses were in buildings where owners confirmed they had no relationship with C. We also found instances where properties remained derelict or under construction when they were supposedly generating income. This makes it highly unlikely that C had the intention of using Mr and Mrs A's payment for a genuine property development investment.

C's accounts further reveal that around one-third of the investment capital was spent on cash withdrawals, payments to individuals involved in C, and luxury expenses such as jewellers and restaurants, alongside other substantial withdrawals with no clear purpose or link to the investment.

Although C received approximately £440,000 that could represent legitimate income, none of this came from local authorities or social housing providers. In contrast, about £2,500,000 was paid to investors. This discrepancy indicates that these payments were not funded by genuine income, strongly suggesting C weren't operating a legitimate business.

In summary, there is little evidence that C used investor funds for genuine property development in the manner detailed to investors. Instead, the available information suggests that investors' funds were obtained through dishonest deception. Even if some funds were used for property-related purposes, it appears this was done primarily to encourage further investment as part of an overall scam. Because of this, I am satisfied that Mr and Mrs A's payment to C meets the CRM Code's definition of an APP scam.

Therefore, returning to the question of whether in fairness I should delay reaching a decision pending developments from external investigations, I have explained why I should only postpone a decision if I take the view that fairness to the parties demands that I should do so. In view of the evidence already available to me, however, I don't consider it likely that postponing my decision would help significantly in deciding the issues here.

I say this as there is no certainty as to what, if any, prosecutions may be brought in future by the police, nor what, if any, new light they would shed on evidence and issues I've discussed. And, as I'm satisfied there is enough evidence available for me to determine that Mr and Mrs A's payment meets the definition of an APP scam as per the CRM Code, I'm not persuaded our service should delay giving an outcome on this complaint. It is also for these same reasons that I do not believe it appropriate for our service to dismiss Mr and Mrs A's complaint.

So, although I understand that HSBC has urged this service to dismiss the complaint on the basis that dealing with it would otherwise seriously impair the effective operation of the Financial Ombudsman Service, I haven't been presented with any evidence that supports this conclusion. Overall, HSBC hasn't provided any persuasive evidence that C was operating legitimately at the time Mr and Mrs A made their payment. And whilst there is an on-going police investigation, HSBC hasn't provided any persuasive explanation why awaiting the police investigation would reasonably inform an outcome under the CRM Code. I'm also persuaded that there was enough evidence available to HSBC at the time Mr and Mrs A raised their complaint for HSBC to conclude that they were the victims of an APP scam.

Are Mr and Mrs A entitled to reimbursement under the CRM Code?

As I'm satisfied Mr and Mrs A's claim meets the CRM Code's definition of an APP scam, I've considered whether they are entitled to reimbursement of their losses under the Code.

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

- The customer ignored effective warnings by failing to take appropriate action in response to such an effective warning.
- 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.

It is for HSBC to establish that one or more of the exceptions set out in the Code should apply. However, HSBC haven't provided any evidence to show Mr and Mrs A were presented with an effective warning when they made their payment. So, I can't fairly say Mr and Mrs A ignored an effective warning or that HSBC can rely on this exception to decline to reimburse them under the Code.

I'm satisfied that Mr and Mrs A had a reasonable basis for believing the investment was legitimate. I say this because as they'd received detailed documents relating to the investment and the companies involved as well as carrying out a number of independent checks on the company and its staff. Having reviewed this information, I understand why the investment would've seemed legitimate at the time. So, I've no reason to believe Mr and Mrs A ought to have been suspicious of these documents or the information contained within them.

Taking all of this into account, I'm satisfied that Mr and Mrs A had a reasonable basis for believing that C, and the investment, were legitimate. Because of that, I'm satisfied that HSBC cannot rely on an exception to reimbursement.

Summary

Overall, I'm not satisfied that HSBC can rely on an exception to reimbursement under the CRM Code. I'm satisfied Mr and Mrs A should receive reimbursement of their losses. I'm also satisfied that it is appropriate for our service to make a determination on Mr and Mrs A's complaint based on the information currently available.

Putting things right

To put things right HSBC UK Bank Plc should:

- Refund the £13,000 Mr and Mrs A lost to the scam.
- Pay interest on that sum at 8% simple per year from the date the claim was declined or 15 days after the claim was made, whichever is the earliest date, to the date of settlement.

I understand HSBC feels an award of 8% simple interest is unreasonable in this case. However, I don't agree. HSBC is aware that 8% simple per annum is the rate usually awarded by the courts in order to compensate customers who have been out of pocket, as Mr and Mrs A have here. And so, I'm satisfied that this interest award is in line with compensation awards made to customers who have been without their funds. Because of this, I'm satisfied it is fair in this case.

If HSBC considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs A how much it's taken off. It should also give them a

tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

As there is an ongoing investigation by law enforcement, it's possible Mr and Mrs A may 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 the rights to all future distributions in respect of this investment before paying the award. If HSBC elects to take an assignment of rights before paying compensation, it must first provide a draft of the assignment to Mr and Mrs A for their consideration and agreement.

My final decision

My final decision is that I uphold this complaint against HSBC UK Bank Plc and require it to reimburse Mr and Mrs A as set out above.

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

Emly Hanley Hayes
Ombudsman