

The complaint

Mr K complains that HSBC UK Bank Plc (“HSBC”) won’t refund him money, which he believes he has lost to a scam.

What happened

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

In May 2025, Mr K saw an item of clothing that he was interested in buying on a social media platform. Mr K contacted the seller and between 21 and 22 May 2025 he sent two payments to the seller, totalling £650, from the account he holds with HSBC.

But the items Mr K received were not what he had paid for, rather it was two bags and an unrelated item of clothing of much less value. Mr K contacted the seller, who said they had made an error and sent Mr K the wrong parcel, mixing it up with the parcel of another buyer. The seller told Mr K that he would provide him with a refund. But Mr K didn’t receive his money back and has said he was then blocked by the seller and unable to contact them.

Believing he’d fallen victim to a scam, Mr K raised the matter with HSBC, but it did not consider it was liable for Mr K’s loss. In summary, this was because it thought what had happened was a civil matter.

Unhappy with HSBC’s response, Mr K brought his complaint to this service. One of our Investigators looked into things. But they agreed with HSBC, that this was most likely a civil dispute, and so Mr K was not entitled to a refund of the payments he had made.

Mr K didn’t agree with our Investigator’s view, he maintained that what had happened was a scam.

As agreement couldn’t be reached, the complaint 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 his submissions and in response to our Investigator’s view, Mr K has put forward some detailed arguments. I won’t be responding in kind. I intend to keep my final decision relatively brief here and I’m very aware that I’ve summarised things, 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. Instead, it’s because having considered what our Investigator has said in their view, whilst thinking about the available information and all of the evidence myself, I see no reason to reach a different outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

When considering what is fair and reasonable in this case, I've thought about the relevant rules that were in place at the time the disputed payments were made. From 7 October 2024, Payment Services Providers in the UK, like HSBC, have been bound by the Faster Payments Scheme (FPS) and the CHAPS reimbursement rules ("Reimbursement Rules"). Under these rules, most victims of Authorised Push Payment (APP) scams should be reimbursed – but "private civil disputes" are not covered.

I've therefore considered whether what has happened between Mr K and the seller meets the Reimbursement Rules' definition of an APP scam or could more reasonably be classed as a civil dispute. The Reimbursement Rules define an APP Scam as:

"Where a person uses a fraudulent or dishonest act or course of conduct to manipulate, deceive or persuade a consumer into transferring funds from the consumer's relevant account to a relevant account not controlled by the consumer, where:

- The recipient is not who the consumer intended to pay, or*
- The payment is not for the purpose the consumer intended"*

By contrast, a private civil dispute is defined as;

"A dispute between a consumer and payee which is a private matter between them for resolution in the civil courts, rather than involving criminal fraud or dishonesty."

In its published policy statement PS23/3, the Payment Systems Regulator gave further guidance:

"2.6 Civil disputes do not meet our definition of an APP fraud as the customer has not been deceived [...] The law protects consumer rights when purchasing goods and services, including through the Consumer Rights Act."

2.5 provides an example of when this might apply:

"...such as where a customer has paid a legitimate supplier for goods or services but has not received them, they are defective in some way, or the customer is otherwise dissatisfied with the supplier."

So, in order to consider what has happened here as an APP scam, I would need to be satisfied that it involves criminal deception. The evidence for this would therefore need to be convincing. Having thought about this carefully, I'm not satisfied that the Reimbursement Rules cover Mr K's payments.

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.

There is no dispute here that Mr K paid who he intended on paying (albeit I understand Mr K has said the payment was made into an account that wasn't in the seller's name), so the first part of the APP scam definition doesn't apply here. I've therefore gone on to consider whether, as a result of dishonesty, the payments were made for a purpose other than Mr K

intended. In order to be satisfied Mr K has fallen victim to an APP scam, I need to be persuaded the seller set out to defraud him.

Here, the purpose of the payments was to purchase an item of clothing. While it's not in dispute that Mr K didn't receive what he had paid for, it's also not in dispute the seller did send Mr K some items, although I don't doubt what Mr K has said in that they were not what he paid for, nor to the value of the item he was expecting. However, the seller subsequently acknowledged that they'd made a mistake and had sent Mr K the wrong items. Of course, the reasons the seller gave for Mr K receiving the wrong items may have been excuses and lies, but I cannot rule out that it is equally possible that the seller had made a mistake and that this may also have been a legitimate reason for the wrong package being received.

There are also a number of other factors that aren't typically seen in scams. I say that as the evidence I've seen shows that the seller did continue to communicate with Mr K after the payments were made, at least for a time. It is not usual in the case of scams, for a fraudster to stay in contact with their victim - where more often than not, on receipt of a victim's money, a fraudster will then no longer be contactable at all. And most often, although of course not always, a fraudster will not send any items at all.

Alongside this, while I can't go into specific details due to data protection reasons, information I've seen from the beneficiary bank (the bank to which the payments were made) doesn't indicate that there were any concerns with how the account was being operated and I'm also aware that there had been no other reports raised about the beneficiary account. Typically, if somebody were running a fraud, you'd expect to see other concerns raised - but that isn't the case here. I'm mindful that Mr K has said the account he paid wasn't in the name of the seller - but this in and of itself doesn't demonstrate that the seller set out with the intent to defraud Mr K.

Mr K has highlighted some issues which might suggest the seller wasn't acting as you might reasonably expect a legitimate seller to do. As well as mentioning that the seller didn't appear to be using a bank account in their own name, he's added that after promising a refund the seller 'blocked' him on the social media platform. Furthermore, he believes that the sending of cheaper items is a well-known scam tactic and that the promise of a refund was a stalling tactic.

While I accept these behaviours can be hallmarks of a scam, there are other possible reasons for them being present. The seller may have made a legitimate mistake, they may have acted unprofessionally, be poorly organised or have been incompetent - but none of these amounts to fraud. As I have explained, in order to find the seller did intend to defraud Mr K, I'd need to see convincing evidence to show fraud is the most likely explanation over any other possibility. I can't know for sure what the seller intended, particularly in the absence of any direct contact and testimony from the third party involved - the seller. Instead, I need to make my decision based on the evidence that is actually available to me. Based on the evidence I've seen, on balance, I'm currently unable to conclude the seller had the intent to defraud and that Mr K fell victim to an APP scam.

I want to be clear that I am not ruling out the possibility that Mr K has been the victim of fraud here and in the individual circumstances of this case it is finely balanced. But with the evidence currently available, I can't safely say that fraud is the most probable explanation, over any other, as to why things have gone wrong.

I don't intend any comments or findings I've made in this decision to downplay or diminish the impact these matters have had on Mr K. I have a great deal of sympathy for him, and I don't doubt that he has been let down and that he has a genuine grievance against the seller. But in the circumstances, having carefully considered everything, I don't find HSBC

were wrong to decline Mr K's claim when considering the Reimbursement Rules. Neither do I find there were any other failings on HSBC's part that would lead me to uphold this complaint.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

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

Stephen Wise
Ombudsman