

The complaint

Mr and Mrs P complain that HSBC UK Bank Plc (“HSBC”) won’t refund them the money they lost, to what they believe to be an Authorised Push Payment (“APP”) investment scam.

What happened

The background to this complaint is well known to both parties and has been laid out in detail by our Investigator in their view, so I won’t repeat everything again here. But, in summary, I understand it to be as follows.

In or around mid-2023, Mr and Mrs P have said that a friend, of over 20 years, who I’ll call “M” introduced them to an investment opportunity. M was the CFO of a company, I’ll call “D”, who were acting as an introducer for the investment. The investment revolved around two separate funds, one with a company I’ll call “T” (which was described to Mr and Mrs P as a higher risk option, and another fund, with a company I’ll call “B” (which was described to them as more appropriate for a cautious appetite).

Mr and Mrs P understood the premise of the investment to be that investor funds would be deposited for the purpose of generating profits through matched betting – with the opportunity of receiving stable monthly returns, with no downside risk.

Mr and Mrs P have said that they carried out their own research, which didn’t cause them any concern. As well as this, they spoke with other investors who had seen returns and had been able to withdraw money. Furthermore, Mr and Mrs P have said they were reassured by the documentation they received, which they said looked polished. As well as this, D introduced Mr and Mrs P to an individual, I’ll refer to as “W”, being told that W would be their account manager.

Believing everything to be genuine, Mr and Mrs P decided to invest and between 17 July 2023 and 4 January 2024, they sent four payments from their HSBC account, totalling £49,070. The payments were made to two separate companies (referred to as Company 1 and Company 2 in the table below), with Mr and Mrs P believing the accounts they paid were to facilitate payments toward the investment fund with “B”. A breakdown of these payments is listed below;

Date	Payment to	Payment type	Amount
17/07/2023	Company 1	Faster Payment to UK account	£8,000
18/07/2023	Company 1	Faster Payment to UK account	£24,000
03/01/2024	Company 2	Faster Payment to International account	£10,000
04/01/2024	Company 2	Faster Payment to International account	£7,070
		Total payments:	£49,070

In April 2024, Mr and Mrs P requested a partial withdrawal of the money they had invested. The withdrawal request went to D, however Mr and Mrs P were told there were problems with the payment provider. Shortly after, in May 2024, they received an email from “W” saying that trading had ceased, but that investors will be compensated. But following this,

the company became unresponsive leading Mr and Mrs P to believe that they had been victims of a sophisticated scam.

Mr and Mrs P reported the matter to HSBC, but it didn't uphold their complaint. At the time, HSBC was a signatory to the Lending Standards Board's Reimbursement Model Code (the CRM Code).

Under the terms of the CRM Code, banks and building societies were required to refund APP scam victims unless one of a limited number of exceptions applied. HSBC declined to refund Mr and Mrs P. In summary, it initially did so on the basis that it thought they had proceeded to make the payments without a reasonable basis for belief (an exception within the CRM Code). It later went on to say that it didn't think Mr and Mrs P's claim met the criteria to be considered a scam under the CRM Code.

Unhappy with HSBC's response, Mr and Mrs P brought their complaint to this service. One of our Investigators looked into things but didn't think the complaint should be upheld. In summary, it was our Investigator's view that the evidence didn't support that the payments were made as the result of an APP scam, so she didn't think that HSBC were liable to refund the money that had been lost. Our Investigator also noted that the final two payments made, didn't go to a UK bank, and therefore in any event couldn't be considered under the provisions of the CRM Code.

Mr and Mrs P didn't agree with our Investigator's view. In summary, they maintained what had happened was a scam and that HSBC should have done more to protect them. They also provided further evidence, by way of a 'Blockchain Investigation Report', which they considered provided verifiable evidence that what had happened was fraudulent.

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 their submissions and in their response to our Investigator's view, Mr and Mrs P have provided some very detailed arguments, as to why they think what has happened is a scam and why they think HSBC is liable to reimburse them the money they lost.

I won't be responding in kind, and I won't necessarily go through every single point on a strict point-by-point basis, nor go through all the potentially relevant rules line-by-line, as a court might. 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.

On bringing their complaint to this service, I'm mindful Mr and Mrs P have referred on numerous occasions to other people who they've said had fallen victim to the same scam who had been refunded by their banks. But I would point out that, while on the surface complaints may seem quite similar, each complaint is determined by its own individual circumstances. I can't comment on other cases, nor of the actions other banks may have taken, that are unrelated to this complaint. Here, as I'm required to do, I'm only looking at the individual circumstances of Mr and Mrs P's complaint about HSBC.

I'm sorry to hear about what's happened to Mr and Mrs P. It's clear they've lost a significant amount of money here. In their correspondence to this service, they've also been brave enough to share some details of the impact these matters have had on them, which I imagine wasn't easy to do. I thank them for this and it's clear to me what has happened has had a huge impact on them, not only financially but mentally, emotionally, and physically too. I don't underestimate just how difficult things have been for them, nor do I underestimate their strength of feeling regarding this complaint.

It's then with regret that I have to tell them this service is unable to help recover their losses. I'm sorry to disappoint Mr and Mrs P, but I'm not upholding their complaint. I'll explain why.

Under the relevant regulations, the starting position is that customers are responsible for payments they have authorised. It's not in dispute that Mr and Mrs P authorised the payments in question, so they are presumed liable for them in the first instance. 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, as mentioned above, HSBC was a signatory to the CRM Code. Signatories to the CRM Code were generally required to reimburse customers who fell victim to APP scams, except if a limited range of exceptions applied. However, the CRM Code didn't apply in all cases. In order for Mr and Mrs P 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 Mr and Mrs P *"transferred funds to another person for what they believed were legitimate purposes, but which were in fact fraudulent."*

Additionally, the CRM Code did not cover international payments, which means the final two payments Mr and Mrs P made would not fall within the provisions of the CRM Code.

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 CRM 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 Mr and Mrs P made the payment and the purpose for which it was procured; and (b) that difference to have been due to dishonest deception.

The key consideration here is what the intentions were of the recipient. Here the funds were intended to go to B, albeit it would seem clear they were sent through accounts that weren't held in B's name. Obviously, I can't know what the intentions were for sure, so I have to look at what the other available evidence shows and use that to infer what the intentions likely were.

It is worth noting that 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, for broadly the same reasons as set out by our Investigator in their view, I'm not persuaded that it does meet that standard. I'll explain why;

- In response to our Investigator's view, Mr and Mrs P have shared details of a 'Blockchain Investigation Report ' into B, which they've said shows no betting activity took place. Firstly, it is worth noting that this report seems to be based on many assumptions and isn't specifically related to the payments Mr and Mrs P made – so it would be unsafe of me to take any firm positions, based on its content. However, contrary to what Mr and Mrs P have said, the report does suggest that funds (to the value of \$ millions) did go towards betting systems. The report also indicates that some funds were being repaid to clients, which is consistent with Mr and Mrs P's own testimony – where they have said that before investing they spoke to a number of people who had already invested, seen returns and been able to make withdrawals. This supports, at least in part, that money was being used for its intended purpose.
- Mr and Mrs P have said the report also shows that investor funds were converted into cryptocurrency without consent. However, as mentioned above, the report doesn't specifically evidence that Mr and Mrs P's funds were converted into cryptocurrency. And, even if we were to assume that the funds were converted into cryptocurrency, given the report details that some funds were used for betting systems, it is still possible that the funds were used for their intended purpose. Based on the evidence currently available, I can't say for sure that it is more likely than not that the funds weren't used as agreed, as opposed to simply being lost due to poor investment performance.
- I note the report also concludes that there was an indication of a lack of a solid investment structure, which carried high risk. While this may point to poor financial planning or mismanagement, it doesn't necessarily indicate fraud. There are plausible alternative explanations that don't involve dishonest intent.
- I think it is also worth noting that while Mr and Mrs P have said the investment was guaranteed, with no downside risk, the documentation they were provided *did* indicate there was risk involved. The application form, for B, which Mr and Mrs P have shared, asked potential investors whether they "*have the financial ability to bear the economic risk*" and also explains that B was "*non-regulated and not subject to the supervisory or regulatory requirements or rules of any regulatory body*". Mr and Mrs P have also said that when discussing T and B, it was explained to them that there were different risk levels with each of the funds. So, while I don't doubt there may have been some questionable sales tactics, it doesn't appear that the investment was being wholly promoted as without risk.
- The report also recommends that next steps involve further examination through legal or law enforcement channels. This service isn't in a position, and it's not its purpose, to forensically analyse a money trail. That would be a matter best suited to other bodies, such as the police or a court. In the circumstances of this case, I've not been made aware of any ongoing criminal investigation. But it's worth noting that if there was a live investigation, I acknowledge, that this would give the appearance, to the layman, to be proof Mr and Mrs P have been the victim of fraud—as it infers that the police have taken the matter seriously enough to pursue this course of action. However, the purpose of an investigation is to gather evidence. And that will likely go

toward investigating an accused's intent at the time; the result of which may or may not lead to a prosecution.

- The documentation Mr and Mrs P received and have shared appears to be professional, and they received confirmation for the payments they made, as well as regular updates. Ultimately, the documents provided to me do not clearly evidence that B was orchestrating a scam investment in order to induce payments from investors with no intention to use the funds as intended. The communications are largely acknowledgements of receipt of funds, with some updates to investors.
- Alongside this, I can see that T was registered and active on Companies House between 2017-2023, filing accounts within this time. Mr and Mrs P have said that they spoke to fellow investors (some of which were friends of theirs) who had investments dating back to 2017 and who had seen significant returns and been able to make withdrawals. This lends itself to the possibility of a genuine and legitimate investment that has failed, as opposed to an intent to defraud.
- In the circumstances of this case, I'm also aware that W wrote to Mr and Mrs P (and as I understand it other investors), informing them that the company had hit some liquidity issues and that it was seeking professional/legal support to work through these. While this doesn't rule out the possibility of fraud, this is not usual behaviour for a fraudster. More typically, once a fraudster has taken money from their victims, they will not reach out to them like this.

Overall, with all things considered, I'm not currently persuaded that the available evidence supports that it is more likely than not that Mr and Mrs P have been the victims of a fraud here. It follows that it wasn't unreasonable for HSBC to decline their claim, for the first two payments, when considering them against the provisions of the CRM Code.

Is there any other reason I could ask HSBC to refund Mr and Mrs P for the international payments?

I've gone on to consider whether there is any other reason I can require HSBC to reimburse Mr and Mrs P, with particular consideration for the final two payments, which weren't covered by the CRM Code.

As mentioned earlier in this decision, HSBC should be on the lookout for, and protect its customers from, potentially falling victim to fraud or scams. This includes monitoring accounts and identifying suspicious activity that appears out of character. Where potential fraud is identified, I would expect HSBC to intervene and attempt to prevent losses for the customer.

Having reviewed Mr and Mrs P's statements, I'm satisfied that the payments they made were unusual and out of character and they were of values that weren't typical of how they ran their account. But this in and of itself, isn't enough for me to say that HSBC should refund them the money they lost. Although it's arguable that HSBC could have done more than it did, I also need to be persuaded that any further proportionate intervention/questioning would have made a difference and prevented the payments from being made. Of course I can't know for sure what would have happened, so I have to base my findings on the balance of probabilities – that is, what I think is more likely than not to have happened, taking into account what I know.

Had HSBC intervened I think a proportionate response to the risk would have been for HSBC to have attempted to establish the circumstances surrounding the payments before allowing them to debit Mr and Mrs P's account. I think it should have done this by contacting

Mr and Mrs P to discuss the payments further. But I'm not persuaded, in the individual circumstances of this case, that such an intervention would have made a difference and stopped Mr and Mrs P from proceeding with the payments.

I say that as it is difficult for me to agree that a conversation would have led to Mr and Mrs P not making the payments. As I have explained above, the information I have seen so far does not clearly indicate Mr and Mrs P have been the victims of a scam. I think had HSBC questioned them, the answers they would likely have provided would have suggested to HSBC that they were dealing with a legitimate investment opportunity, which would not have necessarily raised any red flags for HSBC or led to any more detailed questions being asked.

Mr and Mrs P would have been able to explain that they had carried out research and met face to face to discuss matters with those involved in the investment. As well as this, they would have been able to relay to HSBC that they'd had conversations with people they knew who had already invested (and for some years) and were seeing returns/able to make withdrawals. Alongside this, they had received professional documentation and marketing material and there wasn't any information that would have made it apparent that there was a risk of financial harm through fraud. So, I don't think questioning by HSBC would've identified any concerns about the payments. It's worth noting that I wouldn't expect HSBC to provide advice to Mr and Mrs P on the suitability of the investment. And just because it was an unregulated investment, doesn't mean that it wasn't genuine or that HSBC should've been concerned.

I'm really sorry that Mr and Mrs P have suffered a financial loss, but I'm not satisfied that I can fairly hold HSBC liable or ask it to refund them the money they sadly lost.

I'm aware that Mr and Mrs P raised concerns with HSBC about miscommunication and about how it dealt with things after they'd raised their claim. From what I've seen, HSBC raised a separate complaint regarding those service matters, so I won't then consider them as part of this complaint or within this decision.

I don't say any of this to downplay what Mr and Mrs P have been through here. They put a lot of trust in what they were told, and they haven't received what they expected. I have a great deal of sympathy for them and the position they have found themselves in.

I also want to make it clear that this decision should not be interpreted as a categorical or definitive conclusion that they were not the victim of a scam. It remains entirely possible that they were. However, my role requires me to base my findings on the evidence that is available to me.

After carefully reviewing all of the material presented and considering the circumstances in detail, I am not satisfied that the high threshold for fraud discussed above has been met in this particular case. While I acknowledge the significant impact this has had on Mr and Mrs P and the possibility of wrongdoing, the available evidence simply does not allow me to reach such a finding here.

I'm aware that the situation may change and material new evidence could become available in the future which would change this finding. If it does, Mr and Mrs P should share it with HSBC first to allow it to consider their claim under the CRM Code. If they're unhappy with its response, they may be able to bring a new complaint to this service.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P and Mr P to accept or reject my decision before 26 February 2026.

Stephen Wise
Ombudsman