

The complaint

Miss S complains that HSBC UK Bank Plc ('HSBC') won't refund the money she says was lost as the result of a scam.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my decision.

In summary, Miss S says she was providing seed capital to a company so they could manufacture clothes. Once the clothes had passed quality control and gone to the buyer, Miss S expected to get her investment back along with a percentage as a return.

Miss S made a payment of £1,000 from her HSBC account in February 2024. This payment was made to an individual that I'll refer to as T. Miss S says the investment was being run by an individual I'll refer to as N.

Miss S never received her investment back and says it was a scam. She reported it to HSBC, asking that they refund her. HSBC declined to refund Miss S saying she has a civil dispute with T.

Miss S wasn't happy with HSBC's response, so she brought a complaint to our service.

An investigator looked into Miss S's complaint and didn't uphold it. The investigator wasn't satisfied that Miss S had evidenced that her payment was made as the result of a scam.

Miss S disagreed with the investigator's opinion and asked for an ombudsman to review her case. Miss S raised the following points:

- She's evidenced that another individual made payments to the same account, indicating a broader pattern of fraudulent activity.
- The transaction was unusual and wasn't questioned by HSBC.
- Other victims have received refunds.
- Accounts associated with the perpetrator or his affiliates have since been flagged or closed.

Having reviewed the case, I reached the same overall outcome as the investigator but for different reasons. So, I issued a provisional decision explaining why and giving both parties a chance to respond before a final decision was issued.

My provisional decision

In my provisional decision "What I've provisionally decided – and why" section I said:

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I've reached my decision on the balance of probabilities. In other words, on what I consider is more likely than not to have happened in light of the available evidence.

In broad terms, the starting position at law is that HSBC is expected to process payments and withdrawals that a customer authorises it to make, 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 Miss S authorised this payment, although she did so not realising she would suffer a financial loss as a result.

Having reviewed the evidence, I've reached the same overall answer as the investigator but for different reasons.

There isn't any clear evidence as to the purpose of the £1,000 payment Miss S made. She has evidence supporting an investment of £8,000 – which is being considered under a separate complaint. But it's not clear that Miss S suffered a loss in relation to the £1,000 in relation to the same scam.

But even if Miss S provided evidence that proved the payment was made as part of the same investment as the £8,000, it wouldn't change the answer on her case. I'll explain why.

HSBC is a signatory to the Contingent Reimbursement Model Code (CRM Code), which requires it to reimburse victims of APP scams in all but a limited number of circumstances. But the CRM Code defines what is considered an APP scam as, "where the customer transferred funds to another person for what they believed were legitimate purposes, but which were in fact fraudulent".

In order for me to be satisfied that Miss S was the victim of an APP scam under the CRM Code, I need to be satisfied that T was involved in the scam. If T was simply an unwitting victim of the scam, then Miss S's payment wouldn't be covered by the CRM Code.

As we currently don't have any evidence that supports T being involved in the scam with N, I can't apply the CRM Code to Miss S's payment.

If Miss S has any further evidence from the police which shows fraud charges against T, or evidence that T was party to the scam carried out by N and didn't use Miss S's funds for the intended purpose, she can provide it in response to this provisional decision. Suspicion of involvement isn't enough to meet the definition of an APP scam under the CRM Code. Nor is it sufficient for Miss S to evidence that N was operating a scam, as the payment was made through T.

Despite the CRM Code not applying, there are some situations where we believe that businesses, taking into account relevant rules, codes and best practice standards, shouldn't have taken their customer's authorisation instruction at 'face value' – or should have looked at the wider circumstances surrounding the transaction before making the payment.

HSBC also has a duty to exercise reasonable skill and care, pay due regard to the interest of its customers and to follow good industry practice to keep customers' accounts safe. This includes identifying vulnerable consumers who may be particularly susceptible to scams and looking out for payments which might indicate the consumer is at risk of financial harm.

I appreciate that £1,000 is a lot of money for Miss S, but I'm not satisfied that this payment was so unusual and out of character that I would've expected HSBC to have identified a potential risk of harm from fraud. I say this because Miss S had previously made payments

of a similar or higher value from her account. So, this payment was in line with previous account activity.

As I'm not satisfied that HSBC should've identified a potential risk of financial harm, I wouldn't have expected them to have intervened before following Miss S's payment instruction.

On that basis, I'm not satisfied that HSBC can fairly be held liable for Miss S's loss. My provisional decision was that I didn't intend to uphold this complaint.

Responses to my provisional decision

Miss S disagreed with my provisional decision and provided a substantial response, including new evidence. I've summarised the key issues below:

- T solicited funds, directed payouts and received/benefited from diverted monies.
- T worked with N on "clients, meetings, liaising and delivery/payment dates".
- T told Miss S to be dishonest and hide the true purpose of the payment.
- There is evidence from other "victims" of the scam or a similar scam operated by N/T.
- Miss S has concerns about the information provided by HSBC in response to a DSAR.
- There is evidence that a previous investment set up by N and T had "gone wrong"
- The order confirmation which appeared to come from C, came from N's personal email account and was a fabricated document.
- C and another company (that I'll refer to as H) have confirmed that they were not involved in the investments and that the documents were fabricated and fraudulent.
- Causation shouldn't be considered on whether Miss S would've satisfactorily answered HSBC's questions but whether HSBC discharged its duty of care.
- Another customer of HSBC who complained about the same investment was allowed to submit evidence before a decision on their claim was made. Miss S didn't have this opportunity. Also, other investors have been reimbursed by their banks.
- The CRM Code has been incorrectly considered and misapplied in relation to her payment.

HSBC didn't respond to my provisional decision.

Under the Dispute Resolution Rules (found in the Financial Conduct Authority's Handbook), DISP 3.5.14, says, if a respondent (in this case HSBC) fails to comply with a time limit, the ombudsman may proceed with the consideration of the complaint.

As the deadline for responses to my provisional decision has expired, I'm going to proceed with issuing my 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.

While I haven't referred to each individual piece of evidence that Miss S has provided, I would like to reassure her that I have carefully considered it all. But I'll focus my decision on what I consider to be the key points, the answer I've reached and how I've reached it.

Does the CRM Code apply to Miss S's payment to T?

Specifically in relation to the payment made in February 2024 for £1,000, Miss S has provided evidence that is dated May 2024, which doesn't reference or appear to relate to a payment of £1,000. So, it's still unclear what the purpose was for the £1,000 payment. But, even if Miss S could provide other evidence to clarify this position, I still wouldn't be upholding her complaint. I'll explain why.

Miss S has raised concerns that the CRM Code doesn't require evidence from the police for a finding to be made that she was the victim of a scam. This is correct, but Miss S has to provide satisfactory evidence that proves T was party to the scam carried out by N.

Usually, this type of evidence is available after a police investigation and can clearly show the parties involved in the scam, the roles they played, and how the funds were utilised. This evidence isn't required, but it would provide strong and independently tested evidence to support Miss S's position.

Miss S has provided a large number of individual screen shots, but she hasn't included the full chain of messages, which means a lot of the context is missing. As part of this Miss S has included screen shots from a third party who had made an investment which they say was a scam, which appears to have involved N and/or T. This third-party testimony can't be tested by our service, or verified, and it's only the third party's opinion that they were the victim of a scam.

The messages which Miss S says came from T show poor business practices, and coaching of what to tell the bank if they questioned the payment. While this is suspicious and unethical behaviour, it isn't sufficient to evidence that T was party to the scam. Neither is T soliciting funds from investors, as introducers can be paid a commission for introducing new investors to an investment – it isn't necessarily a sign of scam

Here, there is a gap between the allegations Miss S has made, and the evidence she has provided to support those allegations.

Having carefully considered all of the evidence, I'm still not satisfied that Miss S has proven that T was party to the scam carried out by N. On that basis, I can't apply the CRM Code to her payments or hold HSBC liable under the CRM Code.

Intervention by HSBC

Miss S feels that causation shouldn't consider whether HSBC would've been concerned based on the information she would've provided, rather whether they have discharged their duty of care.

For this payment of £1,000 made in February 2024, I'm not satisfied that the payment was so unusual and out of character that I would've expected HSBC to have intervened. As I explained in my provisional decision, this was a relatively low value single payment, which was in line with previous activity on Miss S's account. So, I'm not satisfied that HSBC should've identified an APP scam risk when it was made.

As I'm not satisfied that HSBC should've intervened, I can't fairly say they should've prevented Miss S's loss.

HSBC's response to a DSAR

Miss S's concerns about her DSAR and the information provided by HSBC is a new complaint issue. As such Miss S needs to raise her concerns with HSBC and, if she isn't happy with HSBC's response, she can bring a new complaint to our service. I will not be addressing points Miss S raised in relation to the DSAR in this complaint.

The outcome HSBC reached on Miss S's complaint

Miss S says HSBC allowed another customer to submit additional evidence before a decision on their fraud claim was made, but they didn't give her this opportunity.

When investigating a fraud claim I'd expect HSBC to ask for the information that it feels is needed to reach an answer, and that may vary depending on the claim – even if it relates to the same investment. As Miss S was unhappy with the outcome reached by HSBC, she was able to bring a complaint to our service and provide any additional information/evidence that she wanted to be considered. I can't fairly say that HSBC have done anything wrong in reaching an answer on Miss S's fraud claim based on the information they had.

Also, while other banks may have reimbursed investors in relation to the same investment with N, that doesn't necessarily mean that Miss S is entitled to be refunded. I have to reach an answer based on Miss S's circumstances and the evidence that has been provided in relation to her payments. And, having reviewed all of the evidence, I'm still not satisfied that I can fairly hold HSBC liable for Miss S's loss or ask them to refund her.

My final decision

My final decision is that I don't uphold this complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 5 May 2026.

Lisa Lowe
Ombudsman