

The complaint

Miss P complains that HSBC UK Bank Plc (First Direct) is refusing to refund her the amount she lost as the result of a scam.

Miss P is being represented by a third party. To keep things simple, I will refer to Miss P throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Miss P has told us that she saw an advert for an investment company I will call X on social media which appeared to be endorsed by a well-known public figure. Miss P clicked on the link provided and was directed to a professional looking website.

Miss P provided her contact information to X and received a call discussing the potential of investing. X appeared to help Miss P via remote access software, setup cryptocurrency wallets and a trading account on its platform.

Initially Miss P appeared to be making a profit on her investments but was persuaded by X to invest further when her balance started to fall, in attempt to save her funds.

Miss P's funds were eventually depleted, and she realised she had fallen victim to a scam.

Miss P made the following payments in relation to the scam:

Payment	Date	Payee	Payment Method	Amount
1	29 July 2022	Bitcoin	Transfer	£250
2	3 August 2022	Bitcoin	Transfer	£5,000
3	10 August 2022	Skrill	Transfer	£10
	11 August 2022	Skrill	Credit	£169.63cr
4	11 August 2022	Bitcoin	Transfer	£5,000
5	12 August 2022	Bitcoin	Transfer	£25,000
6	17 August 2022	Bitcoin	Transfer	£30,000
7	18 August 2022	Bitcoin	Transfer	£20,000
8	26 August 2022	Bitcoin	Transfer	£25,000
9	14 October 2022	Bitcoin	Transfer	£45,000
10	27 October 2022	Bitcoin	Transfer	£45,000
11	28 October 2022	Bitcoin	Transfer	£10,000

Our Investigator considered Miss P's complaint and didn't think it should be upheld. Miss P disagreed so this 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.

It has not been disputed that Miss P has fallen victim to a cruel scam. The evidence provided by both Miss P and First Direct sets out what happened. What is in dispute is whether First Direct should refund the money Miss P lost due to the scam.

Recovering the payments Miss P made

Miss P made payments into the scam via the method of transfer. When payments are made by transfer First Direct has limited options available to it to seek recovery.

Miss P didn't make the disputed payments to the scammer directly. Miss P made payments to a cryptocurrency exchange in exchange for cryptocurrency that was provided to her, and it took further steps to send these funds to X. As there is no dispute that the cryptocurrency was provided to Miss P in exchange for the payments any attempt to recover them would likely be unsuccessful.

So, I don't think First Direct had any reasonable options available to it to seek recovery of the payments Miss P has disputed.

Should First Direct have reasonably prevented the payments Miss P made?

It has been accepted that Miss P authorised the payments that were made from her account with First Direct, albeit on X's instruction. So, the starting point here is that Miss P is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether First Direct should have been aware of the scam and intervened when the payments were made. And if it had intervened, would it have been able to prevent the scam taking place.

The first payments Miss P made in relation to the scam were not so significant in value that I would have expected then to have caused First Direct to have had concerns. While they were being made to a new payee, the payee was a legitimate business, and it would not be reasonable to suggest First Direct should intervene every time one of its customers makes a payment to a new legitimate business.

However, from payment 4 Miss P was making significant payments to a known cryptocurrency exchange which was out of character with the way she normally operated her account. While these payments could have been genuine, I think a proportionate response from First Direct would have been for it to have intervened and discussed the payments with Miss P.

But even though I think First Direct should have intervened I don't think this would have made a difference. I will explain why.

It's clear from the chat transcripts provided to us by Miss P that X was guiding her on what to say to her banks when making payments in relation to the scam and calls also took place around the time Miss P made the payments. Both Miss P and X expressed dissatisfaction within the chats about the restrictions in sending such payments.

Miss P was required to speak with First Direct when making several of the payments she

has disputed. While I think First Direct should have asked Miss P questions about the payments, during one of the calls Miss P explained she was unhappy making the calls to First Direct to verify payments and that she was making the payment to her own account and the payment was “going nowhere”.

Miss P had also previously attempted to make payments in relation to the scam from an account she held elsewhere and on advice of X transferred funds from that account to her First Direct account to fund the disputed payments. Each time Miss P made a payment she gave different reasons for the payments such as “Building Work”. We have since asked Miss P why she gave incorrect information when making these payments and she told us she was guided by X to do so.

I think from the information available, that it’s clear Miss P was under the spell of X and was willing to make large payments in relation to an investment she had no previous experience with having carried out little to no research of her own. Miss P was also willing to give incorrect information to well-known banks to have her payments processed.

So had First Direct intervened further as I think it should have, I think it’s most likely Miss P would have referred to X and taken its guidance on what to say to First Direct to have the payments processed. I don’t have enough to say Miss P would have given honest responses to questions asked by First Direct, or that she would not have taken X’s guidance as she had done previously.

Giving false information when making payments would have made it extremely difficult for First Direct to uncover the scam, something scammers are generally aware of. Considering the above I don’t think First Direct missed an opportunity to prevent the scam, so it is not responsible for Miss P’s loss.

My final decision

I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss P to accept or reject my decision before 30 May 2025.

Terry Woodham
Ombudsman