

The complaint

Mr and Mrs C complain that HSBC UK Bank Plc trading as first direct didn't do enough to protect them when they made two payments to a property investment opportunity they now consider was a scam.

What happened

Mr and Mrs C made two £10,000 payments online from their first direct account towards a property development investment with 'H' in March 2018. Mr and Mrs C now say the investment was a scam and first direct should've done more to protect them at the time they invested.

first direct didn't uphold M and Mrs C's complaint and said this was a civil dispute between them and H. They came to our service, but our investigator also didn't uphold their complaint for the same reasons, saying there wasn't evidence they had been scammed. Mr and Mrs C, via a representative, asked 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 broad terms, the starting position in law is that a business is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

There are, however, 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.

first direct should have been on the look-out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (amongst other things) though. And, in some circumstances, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment.

Having reviewed Mr and Mrs C's account activity in the months prior to the payments to H, they do make some other high value transactions. They receive a large credit which appears to be from a matured investment and move this to another account in October 2017. And then in February 2018, they receive another, larger credit from an external savings account and move these funds out in late February and early March 2018, prior to the payments to H. So the two £10,000 payments weren't entirely out of character for the account by the time they were made.

But, even if first direct had decided to intervene and speak to Mr and Mrs C before they processed these payments, I'm not persuaded the kind of information I'd expect first direct to have shared/discussed with them in March 2018 would've prevented the payments from

being made.

H was a legitimately registered company at the time Mr and Mrs C paid into it. We're aware that H provided promotional literature which had both persuasive and comprehensive information for investors setting out how it operated, and the returns expected. So it seems highly unlikely that a conversation with first direct would've prevented Mr and Mrs C going ahead with the investment when they were aware of this kind of information. And there also wasn't anything obviously concerning about H available in the public domain at the time of the payment.

I haven't seen information that indicates first direct ought to have stopped the payments to H at the time Mr and Mrs C were making them, or that even if it had, anything it shared would've prevented them from going ahead. So I currently see no reason to uphold this complaint.

My final decision

For the reasons set out above, I don't uphold Mr and Mrs C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs C to accept or reject my decision before 31 December 2024.

Amy Osborne
Ombudsman