

The complaint

Mr B, who is represented, complains that HSBC UK Bank Plc, trading as First Direct, won't reimburse him funds he lost from fraud.

What happened

As the circumstances of this complaint are well-known to both parties, I have summarised them briefly below.

In mid-late 2019, Mr B discovered an investment opportunity in a business I will refer to as Business P. The proposal set out that upon investment, returns would be provided per annum on it.

Mr B was happy to proceed, and in August and December 2019 sent two payments from his First Direct account of £12,000 to Business P.

However, in May 2024 a petition was put to the court by a third-party investor to have the company wound up. That petition was granted, and an order was made for Business P to enter insolvency.

Mr B's representative complained to First Direct. It claimed that Mr B had been the victim of an investment fraud and that First Direct ought to have done more to prevent that fraud. But after considering the complaint, First Direct concluded it wasn't liable for Mr B's loss. It said that Mr B appeared to have invested in a legitimate business that had failed. It therefore didn't agree he'd been the victim of fraud.

Mr B, via his representative, referred his complaint to our service for an independent review. An Investigator considered the evidence provided by both parties but agreed with First Direct's position that Mr B had not been a victim of fraud. They therefore didn't recommend a reimbursement of the funds lost.

Mr B, via his representative, disagreed with the Investigator's assessment. While it agreed that limited information could be provided to support a fraud had taken place, it argued First Direct ought to have intervened in the payments and provided a warning about them.

As Mr B disagreed with the Investigator's assessment, the matter has now 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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

There is no dispute here that Mr B authorised the transactions in question. And the starting position in law is that he will be held liable for the transaction authorised in the first instance. That is due to First Direct's primary obligation to process payments in line with its customer's instructions, as set out in the Payment Services Regulations 2017.

However, First Direct was a signatory to the Lending Standards Board's Contingent Reimbursement Model (the CRM Code) at the time the payments were made. Under that Code, firms are expected to reimburse customers who fall victim to fraud, subject to a number of exceptions.

However, the CRM Code is only relevant if I'm persuaded Mr B was a victim of fraud. The Code specifically doesn't cover certain types of 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".

Likewise, even had the payments not fallen within the scope of the CRM Code, First Direct has no liability to reimburse Mr B his loss from a bank transfer where the matter is deemed a civil dispute, such as where he paid for a legitimate investment that has failed.

From the information provided so far by Mr B, I'm not persuaded he has been a victim of fraud. I'll explain why.

Our Investigator has already set out in detail why our service, after considering the evidence available, has deemed investments in Business P legitimate. And from reading the responses Mr B's representative has given to our Investigator's view, it seems there isn't much by way of disagreement on this point. However, for completeness, I have summarised those reasons as follows:

- Mr B's representative has not provided our service with any evidence that would suggest Business P set out with an intention to defraud, was operating an illegitimate business or misrepresented itself to investors.
- Business P was a registered business on Companies House and was wound up via insolvency. I have seen no third-party evidence—such as reports from the Liquidator or law enforcement—that would suggest a fraud.
- Open resource checks carried out by our service suggest that Business P was actively progressing and fulfilling on projects it claimed it was undertaking.

Overall, there is no persuasive evidence on this complaint that Mr B has been victim of an investment fraud. To the contrary, the evidence suggests Mr B has invested in a business that has unfortunately failed. It therefore follows that First Direct cannot reasonably be held liable for his loss.

Mr B's representative has argued in their response to our Investigator's view that while it acknowledges banks, such as First Direct, have no duty to protect its customers from a "bad bargain or give investment advice", it ought to have intervened in the payments and warned Mr B regarding the high risks associated with unregulated investments.

I have considered this argument but cannot agree it is a valid one. Warning Mr B about the risks associated with unregulated investment is, by its very definition, investment advice. And failure to provide investment advice would not be deemed an error on First Direct's part. I therefore fail to see why Mr B's representative deems this a relevant argument where it has already acknowledged that First Direct has no duty to protect its customers in such scenarios.

The fundamental issue at the heart of this complaint is that First Direct ought reasonably to prevent financial crime and reimburse its customer—unless exceptions apply—their loss where they have been a victim of fraud. But as no fraud has been committed here, no such liability to reimburse exists.

I am sorry to hear of the significant loss Mr B has suffered as a result of his investment failing. I realise this has had a significant impact on him. But I can't reasonably expect a bank to reimburse its customer a loss they suffered from a failed investment. But should any information come to light in the future that would support that Business P was defrauding its investors, Mr B can present that new evidence to First Direct for further consideration.

My final decision

For the reasons I have given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 14 October 2025.

Stephen Westlake
Ombudsman