

The complaint

Mr K has complained that HSBC UK Bank Plc trading as first direct won't refund money he lost to a scam.

What happened

Mr K has said he was introduced to the 'investment opportunity' by someone he had been talking to on social media, who turned out to be the scammer. Eventually Mr K made several international payments to the scammer between January and February 2024 and he thought he was investing in cryptocurrency.

Mr K has said that none of the payments he made were questioned by first direct despite its policy to limit cryptocurrency transfers. Mr K believes first direct should have had concerns about these transactions as they were totally out of character and Mr K's other accounts (which he held with third party firms) were blocked when he tried to make similar transfers.

first direct has said the initial amounts Mr K sent were not unusual or suspicious account activity compared to Mr K's usual spending, especially considering, in its opinion, Mr K was an experienced investor. However, it said, even if it did intervene, it didn't think Mr K would have provided accurate answers to the questions it asked. It feels Mr K would have used his alternative accounts (which he holds with third party firms) to make the payments.

Mr K brought his complaint to our service. Our investigator looked into Mr K's complaint and originally, he felt that while first direct ought to have identified the payments as unusual or suspicious in appearance, and it should have contacted Mr K before allowing the transactions to go through, he wasn't persuaded it would have made a difference if it had done so.

Mr K didn't agree, he admitted he was untruthful with the third-party firms he also holds accounts with, when they intervened, and asked him to answer questions regarding the transfers he was making, but this was through 'desperation' due to how much he had invested at that time. Therefore, he says if first direct had intervened earlier, he would have told the truth.

Our investigator considered Mr K's further points and agreed that if first direct had intervened earlier, Mr K was likely to have provided accurate answers to the questions it ought to have asked. He said this because early chats with the scammer (December 2023) showed that Mr K had concerns about such investments and had shared his previous experiences about being contacted by scammers. He had also clarified that he didn't understand much about such investments and believed there were other ways to make good returns through other types of investments. Furthermore, he had commented that he hoped his decision to invest or not won't affect their friendship. As such our investigator recommended the complaint be upheld and said that First Direct should refund 50% of the disputed transactions from the second payment of £14,500 on 15 January 2024. This took into consideration that our investigator felt that 50% should be deducted due to contributory negligence.

first direct didn't agree with the investigator's opinion so the complaint was referred to me to

consider.

I issued my provisional findings on 27 October 2025, where I said the following:

"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 bank is expected to process payments that their customer authorises them to make. It isn't disputed that Mr K knowingly made the payments from his account and so, I'm satisfied he authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of his account, first direct is expected to process Mr K's request, and he is presumed liable for the loss in the first instance.

However, taking into account the regulatory rules and guidance, relevant codes of practice and good industry practice, there are circumstances where it might be appropriate for first direct to take additional steps or make additional checks before processing a payment to help protect customers from the possibility of financial harm from fraud.

The question then arises whether first direct ought reasonably to have held such suspicions or concerns in relation to Mr K's payments - and if so, what might've been expected from a proportionate intervention at that time. Further to that, where there is an interaction between a customer and a bank before a high value payment is processed, I'd expect the bank to take reasonable steps to understand the circumstances of that payment.

So, taking all of this into account, I need to decide if first direct acted fairly and reasonably in their dealings with Mr K when he made the payments. Specifically, whether they should've done more than they did before processing them – and if they had, would that have made a difference. I also need to decide if first direct could've reasonably recovered the lost funds. Having considered the size of the payments, where they were going to and Mr K's previous expenditure on the account, I'm satisfied that the first payment first direct should've intervened on, or had been concerned about, was payment one, made on 9 January 2024 (£5,000). I say this because it was a big increase in value compared to previous payments and an international transfer. So, in my view, there was enough about the characteristics of payment one and the activity on the account that ought to have been concerning such that first direct should have intervened.

So, with that in mind I have considered what type of warning would have been proportionate given the risk the payment presented. The FCA's Consumer Duty, which was in force at the time these payments were made, requires firms to deliver good outcomes for consumers including acting to prevent foreseeable harm. In practice this includes maintaining adequate systems to detect and prevent scams and to design, test, tailor and monitor the effectiveness of scam warning messages presented to customers. As such, firms, have developed warnings to recognise both the importance of identifying the specific scam risk in a payment journey and ensuring that consumers interact with the warning.

In light of the above, by January 2024, when these payments took place, first direct should have had systems in place to identify, as far as possible, the actual scam that might be taking place, for example, by asking a series of automated questions designed to narrow down the type of scam risk associated with the payment he was making and have provided a scam warning tailored to the likely scam Mr K was falling victim. I accept that any such system relies on the accuracy of any information provided by the customer and cannot reasonably cover off every circumstance.

However, I am not persuaded that this type of warning (which I deem to be proportionate given the time when the payment was sent and risk it presented) would have prevented Mr K from making the transfer. I say this because I have read the scam chats between Mr K and

the scammer, in the days leading up to payment one (including the day he transferred payment one) Mr K had told the scammer he loved her, was discussing his future with her and completely under the spell of the scammer. Mr K had said things such as:

"I love you Mia so in my eyes you can do little wrong"

Therefore, I am not persuaded at this stage, the intervention I described above would have broken the spell and stopped Mr K transferring the funds at this point. I don't think Mr K would have answered the questions openly and honestly (as seen in later interventions) and therefore, the correct warning wouldn't have been presented and wouldn't have resonated with Mr K.

I have gone on to consider the second transaction Mr K made (considering he has said an earlier intervention would have prevented him from transferring the funds). Mr K sent £14,500 on 15 January 2024. While, Mr K had previously sent £5,000 as an international transfer some days prior, this was a big increase in expenditure, to an international account and uncharacteristic to his usual account activity. As such, there was enough about the characteristics of this transaction to warrant first direct intervening.

At this point, due to the elevated risk, I think human intervention would have been a proportionate intervention, where first direct could have asked open and probing questions to establish the potential scam Mr K was falling victim to. As there are multiple accounts (some held with third party firms) where Mr K made transfers to the scammer (or to another account in his name, to eventually sent onto the scammer), I have taken all events and interventions into consideration.

On multiple occasions, not just with first direct but with other firms too (of which Mr K holds accounts with) Mr K was asked for the purpose of the payment, if he had met the payee, if he had met her online, and multiple other open and probing questions, and by Mr K's own admission, he didn't provide accurate answers to these questions. By not providing accurate answers on some occasions, it denied first direct and other institutions from being able to identify the potential risk of fraud.

I also note that one of the third party institutions clearly outlined that Mr K was being scammed. It said:

"We believe you are falling into a scam. After research on Google, we found out that the profile picture from the person you are talking on.....has been used under another name in other social media. We advise you to research the person's photo and profile using online searches to see if the image, name, or details have been used elsewhere. Never send money to anyone you have only communicated with online or by phone."

Romance scams are very common. They occur when a criminal adopts a fake online identity to gain a victim's affection and trust. The scammer then uses the illusion of a romantic or close relationship to manipulate and/or steal from the victim. The criminals who carry out romance scams are experts at what they do and will seem genuine, caring, and believable. Con artists are present on most dating and social media sites.

The scammer's intention is to establish a relationship as quickly as possible, endear himself to the victim, and gain trust. Scammers may propose marriage and make plans to meet in person, but that will never happen...."

Having read the scam chats, unfortunately this was very similar to Mr K's circumstances, and despite a very clear, adequate warning from the firm, Mr K proceeded to share the information with the scammer. He said:

"I objected to my friends being called a scammer, I got profuse apologies from him for making that suggestion. think the payment is proceeding but it's taken over 1 hour"

Just over a hour later Mr K said:

"you are gorgeous I so need a big tight cuddle and a lingering kiss from you."
So, while I empathise with Mr K's situation, it is clear from the scam chats (at that time this warning was given) he is under the spell and has no doubt that their relationship was genuine. As the robust intervention didn't deter Mr K from making the payment, he simply found an alternative method.

Therefore, while this warning was just under two months after Mr K made the payment of £14,500 on 15 January 2024, I am satisfied, having compared the scam chats between 8 January 2024 and 12 March 2024, I am satisfied that Mr K was fully invested in his relationship with the scammer, trusted her and was under the spell of the scam. Therefore, even if first direct had intervened, I don't think it would have prevented Mr K transferring his funds. He would have either provided inaccurate information or found another way to transfer the funds (as evidenced in the events which occurred throughout the scam period).

I appreciate Mr K has said by his own admission that as the scam progressed, he didn't provide accurate answers to the questions asked but he has said, if first direct had intervened sooner he would have. And while I can't say with absolute certainty what Mr K would have done, I am persuaded, on balance, that it's unlikely, even if first direct had intervened earlier it would have made a difference. Firstly, as I have said above, if I compare the scam conversations in January 2024 against March 2024, it is clear Mr K is as invested and under the spell of the scam as much in January 2024 as he was in March 2024. He trusted the scammer and expressed his love for her and it is clear he sought her approval and felt 'lucky' to be in a 'relationship' with her. Secondly, I have seen evidence to show that even when Mr K was provided with robust warnings and evidence it was a scam, he found alternative ways to make the payments. As such, I am satisfied any intervention done at an earlier stage by first direct wouldn't have prevented Mr K's losses.

Recovery

I've also thought about whether first direct could have done more to recover the funds once it became aware of the situation, as in some circumstances the money can be recovered. But unfortunately, when First Direct contacted the receiving bank, it did not receive any positive response from them. This is not surprising based on the fact these were international transfers. In any event, due to the type of scam, it is highly likely the funds would have been in the beneficiary's account and likely to have been transferred out immediately.

Consequently, despite my natural empathy for this cruel scam and the situation Mr K finds himself in, I'm not persuaded First Direct taking different actions would have prevented the payments being made or the loss that ensued. It follows that I do not consider it fair or reasonable to require First Direct to do anything beyond what it has already done for the complaint.

My provisional decision

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

Mr K responded to my provisional findings with further comments which I will address below, first direct accepted my provisional findings.

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.

I'm very aware that I've summarised this complaint very briefly, in far less detail than has been provided from Mr K, and in my own words. No courtesy is intended by this.

In summary, Mr K thinks first direct ought to have intervened and verified the payments. And if it had done so it would have made Mr K question if his investment was authentic, as he wasn't as invested in the scam at that point.

It's not in dispute that first direct ought to have intervened. In my provisional findings I explained that I agreed with Mr K that first direct ought to have intervened via human intervention on *9 January 2024 when he made the payment for £5,000*.

However, while Mr K hasn't provided any further evidence, he has provided a further explanation as to why he feels an earlier intervention (on 9 January 2024) would have unveiled the scam. Mr K has said:

"It is worth emphasising again that had First Direct intervened right at the outset I would not be in this stressed out state that caused me to take desperate measures and fabricate reasons"

While I agree Mr K wasn't stressed out, as 'invested' in the investment opportunity or in a desperate state on 9 January 2024. This wasn't, in my opinion, the driver for why he made the payments. As explained in my provisional decision, it is clear from the scam chats he was under the scammer's spell and had no doubt that their relationship was genuine. And on balance I am satisfied this was the driver for him investing.

The robust intervention didn't deter Mr K from making the payment, he simply found an alternative method. And again, having reviewed the scam chats, I am satisfied Mr K was as invested in his 'relationship' with the scammer on 9 January 2024 as he was when the warning was provided. As such, I am satisfied a robust intervention from first direct on 9 January 2024, wouldn't have deterred Mr K. And therefore, wouldn't have prevented Mr K's losses.

Mr K has said:

"We will never know whether I would have heeded the warnings if First Direct had initially intervened but at that stage I was not committed to the scam and had nothing to lose."

And while I agree with his comments, it is my role to consider what I think is likely to have happened if they had intervened as Mr K suggested. And I am not of the opinion his reasons to invest on 9 January 2024 were the same as later in the scam. I agree at a later stage he may have been acting in desperation and panic. But on 9 January 2024, I am satisfied from reading the entire chat between him and the scammer he was heavily under the spell of the scammer for the reasons I highlighted in my provisional findings.

As such, my final decision remains the same as my provisional findings.

So, while I empathise with Mr K's circumstances, I won't be asking first direct to do anything more.

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 Mr K to accept or reject my decision before 15 December 2025.

Jade Rowe
Ombudsman