

The complaint

Mr S complains HSBC UK Bank Plc (trading as first direct) didn't do enough to protect him when he fell victim to a job scam.

Mr S is being represented by a third party. However, to keep things simple, I will refer to Mr S throughout my decision.

What happened

The background to this complaint is well known to both parties, so I won't repeat everything here. In summary, Mr S was contacted on an instant messaging application and offered a task-based job where he was required to rate hotels in exchange for commission. I'll refer to the company Mr S believed he was working for as 'MH'.

Mr S said he was asked to open an account with MH on its platform, as well as accounts with genuine cryptocurrency providers, where his "commission" would be paid into. He was also required to deposit funds, in the form of cryptocurrency, into his account with MH to complete 'luxury offer' tasks (which supposedly paid a higher commission).

Between 5 July 2023 and 18 July 2023, Mr S made transactions totalling £14,265.10 on his first direct current account and credit card as part of the scam. He made payments to the crypto provider(s) directly, and also via money remittance providers and an account Mr S holds with an Electronic Money Institution (EMI) provider – which I'll refer to as 'R'.

Mr S said he realised he had been a victim of a scam when he tried to withdraw his funds but he no longer had access to the MH platform.

first direct agreed to partially uphold Mr S's complaint and refund him 50% from the third payment he made on 10 July 2023 onwards, which totalled £4,760.06.

first direct didn't agree to refund the earlier payments as they said there were no red flags present as the payments were going to accounts Mr S held in his own name and they felt he could have done more checks to be satisfied he was paying a genuine company.

first direct have also said they attempted to call Mr S on 11 July 2023, but there was no answer, and on a call on 13 July 2023, when asked if the payments he was making from his account were genuine he confirmed they were. They went on to say the payments also didn't match any current fraud trends. However, they feel Mr S could have done more to prevent the scam, so they feel a 50% reduction in the refund given is fair.

The complaint was raised to our service. Our Investigator didn't uphold it. In summary, she said:

- The earlier payments Mr S made didn't carry a heightened risk of financial harm and she wouldn't have expected first direct to be concerned until the payment of £1,340 on 10 July 2023, which was two payments on from the point first direct have provided a partial refund.

- Mr S should share equal liability for his loss as he should have done more due diligence on the company before making the payments. And there were plenty of other red flags which should have made Mr S stop and think about the job opportunity, such as being approached on an instant messaging application, offered a job without an interview, and asked to make payments rather than be paid for the work.
- Recovery wouldn't have been possible as Mr S was paying money into his own account(s), which was moved onto the scammers. And as first direct have agreed to provide a refund from an earlier point than we might have suggested, they don't need to do anything else.

Mr S didn't agree. In short, he said, first direct should be liable for 100% of the loss from the point they have refunded him from as he feels a warning from first direct at that point would have stopped him from making any further payments.

As no agreement could be reached, Mr S's complaint has been passed to me for review and a 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.

I'm sorry Mr S has been the victim of a scam. But while I appreciate this has had a significant impact on him, I think first direct has acted fairly by refunding the amount they have.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. Here, it isn't disputed that Mr S knowingly made the payments and so, I'm satisfied he authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of the account, first direct are expected to process Mr S's payments, 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.

Here, first direct has already accepted they could've done more to protect Mr S from the scam. Because of this, they decided to refund 50% of his loss – from the £100 payment he made on 10 July 2023 onwards. Having looked at the transactions Mr S made; I don't think the earlier payments Mr S made carried a heightened risk of financial harm from fraud. Most of the payments made during this period were for modest amounts which wouldn't usually indicate a customer was at risk of harm from fraud. Some of them were also being sent to Mr S's own account with R or a money transfer service. So, first direct wouldn't have known that Mr S was making payments towards cryptocurrency from the destination of these payments.

I agree with our Investigator, that we wouldn't have expected first direct to have been concerned that Mr S's payments were at risk of being lost to a scam before the point they have suggested.

As explained above, first direct have already agreed that they could have done more to prevent Mr S's losses. I therefore don't intend to focus on that further here – as a result, I won't be addressing all the points put forward by Mr S. Instead, I will focus on whether it is

fair and reasonable for the amount refunded to Mr S to be reduced due to contributory negligence on his part.

When considering whether a consumer has contributed to their own loss, I must consider whether the consumer's actions showed a lack of care that goes beyond what we would expect from a reasonable person. I must also be satisfied that the lack of care directly contributed to the individual's losses.

Here, I consider that there were sophisticated aspects to this scam – including, for example, MH's platform showing Mr S's funds and them being used to complete the tasks. I must however also take into account that, while Mr S has said he needed an income due to losing his job, he was offered an unsolicited job opportunity from someone on an instant messenger application. I also haven't seen anything to show that Mr S received any contract of employment before starting the job with MH – which would typically be expected from a legitimate employer. Mr S was also told he could expect to earn £90-100 per day and an additional £400 after five days of work – which, I would add, seems an unrealistically high return for completing relatively simplistic tasks. It would therefore have been reasonable to have expected Mr S to have questioned whether the job opportunity was too good to be true. Furthermore, the concept of undertaking fake reviews to boost the popularity of hotels he had never visited ought to have been seen by Mr S as likely illegitimate. And the fact Mr S, had to deposit funds, especially in the form of crypto, ought to have been of particular concern – as it is highly irregular for someone to have to pay to earn money (especially the amount Mr S did) as part of a job.

Because of this, and taking everything into account, I think Mr S ought to have had sufficient reason to suspect that the job opportunity wasn't legitimate. And so, I would've expected Mr S to have taken greater caution before proceeding. This could've included carrying out online research into this type of job or carrying out further research about the company who approached him. If Mr S had done so, then I consider he would've most likely uncovered that he was being scammed – thereby preventing his losses.

I've concluded, on balance, that it would be fair to reduce the amount first direct pays Mr S because of his role in what happened. I think a fair deduction is 50%. first direct has since confirmed they will pay 8% simple interest on the payments to recognise Mr S's loss of use of money. I think this is fair.

I've considered whether, on being alerted to the scam, first direct could reasonably have done anything more to recover Mr S's losses, but I don't think they could. One of the options available to first direct was to raise chargebacks on the debit card payments Mr S made against the payees - that being the crypto provider. But these likely wouldn't have had any reasonable prospect for success. This is because, the service paid for was provided – that being the exchange of funds into crypto to Mr S's own account. In relation to the credit card payments, first direct could have raised section 75 claims, however, for similar reasons as the debit card payments, this likely would have been unsuccessful as the service had been provided as paid for by Mr S. In relation to the faster payments, Mr S has confirmed these payments were made into an account in his own name, which were then forwarded onto the scammer. So, I wouldn't have expected first direct to have done anything else to help recover Mr S's funds.

I have a great deal of sympathy for Mr S and the loss he's suffered. But while I haven't made this decision lightly, I don't think first direct need to provide him with any further refund, aside from the 8% simple interest which they've confirmed they will pay.

My final decision

My final decision is that I do not uphold this complaint. I don't think first direct need to do anything more than refund £4,760.06 – which I understand they've already done – and pay 8% simple interest from the date of each payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 8 August 2025.

Israr Ahmed
Ombudsman