

The complaint

Mr M and Miss P complain HSBC UK Bank Plc trading as first direct won't refund the money they lost when Miss P fell victim to a scam.

What happened

In early 2025, Miss P was offered a remote job opportunity with a company, "B" which involved completing tasks in return for commission. Miss P was told she needed to send payments to B's platform to unlock tasks and earn more commission. Unfortunately, this was a scam.

Miss P sent the following payments from first direct to firms I'll refer to as R, W and G. She has explained the scammers directed her to set up accounts with these firms, in order to send payments on to the scam (thinking she was paying to unlock commission):

*Please note, the investigator's outcome gave the date of the payments sent to R as 13 January 2025, and the date of the payments to W and G as 14 January 2025 – matching how the payments showed on Mr M and Miss P's statements. But the payments were made on the earlier dates set out in my table. It's common for card payments to pull through to the statement on a later date.

Date*	Payment type	Recipient	Amount	Notes
10/01/2025	Card payment	R	£1,781.99	first direct says this was initially declined and a text was sent to verify the activity, to which Miss P responded "Y"
10/01/2025	Card payment	R	£1,002.99	
13/01/2025	Card payment	W	£1,150.00	
13/01/2025	Card payment	G	£1,374.32	It appears this payment was flagged and returned by G
23/01/2025	Credit from G	n/a	£1,374.32	Returned payment
		Loss	£3,934.98	

Miss P also used several credit cards to send further payments to the scam (via R and W). When she kept being asked for further funds without receiving the commission she was expecting, she realised she had been scammed – and reported this to first direct. She subsequently complained, and then referred the matter to our service, when first direct didn't agree to refund her.

Our investigator thought first direct should have intervened and uncovered the scam when Miss P sent the second payment to R. He recommended it should refund 50% of her loss from this point.

First direct appealed the investigator's outcome. It said the size and character of the payments didn't look significantly unusual compared to how the account was normally used. And the payments had been authenticated via "One Time Passcodes" (OTPs), which provided a further level of security. It disagreed that it should have intervened further on any of the payments.

I then issued my provisional decision explaining I wasn't minded to uphold the complaint. In summary, I didn't think first direct had cause to intervene further on any of the payments. Nor that, if it had done so, this would have succeeded in uncovering the scam. I explained this was partly because there were some gaps in my knowledge and understanding of how the scam transpired based on the information Miss P had provided.

I invited both parties to submit any further comments or evidence. First direct didn't provide anything further by the deadline I set. Miss P responded to confirm she has submitted all the information she has. She doesn't feel the decision is fair, and doesn't think it takes into account the mental toll scams have on people.

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.

Having done so, I've decided not to uphold it. This is largely for the reasons given in my provisional decision, which I've set out below and which form part of my provisional decision. I'll also address Miss P's more recent comments.

It's agreed Miss P authorised these payments. That means the starting position is that she's liable for them. In line with the Payment Services Regulations 2017, firms are expected to process authorised payment instructions without undue delay.

However, there are some situations where I would reasonably expect a firm to make further enquiries about a payment before deciding whether to process it – such as in circumstances where there are grounds to suspect it presented a fraud risk. If first direct failed to respond proportionately to such a risk, and doing so would have prevented Mr M and Miss P from incurring a fraudulent loss, it may be fair to hold it liable.

I've carefully considered Mr M and Miss P's account activity to determine whether first direct should have done more when these payments were requested. Overall, I consider it reasonable that first direct proceeded in line with the authorised payment instructions it received.

The first payment does appear to have been flagged for an additional layer of security; first direct's audit information appears to show it was initially declined and Miss P had to send a text response to confirm she had requested it. While that does suggest first direct had a level of concern about this payment, I consider the steps it took to be proportionate to the risk level of the payment. The text response would have offered further reassurance it was Miss P requesting the payment.

I also don't think the payment looked particularly concerning or unusual in amongst the general account activity. It wasn't that uncommon for Mr M and Miss P to make payments for similar, or higher, amounts. And while the payment was going to a new recipient, the merchant paid was also an FCA-regulated firm – so I don't think the destination would have made the payment look particularly risky.

I appreciate a further payment was then sent to that same recipient. But the overall amount sent to R (just under £2,800) still didn't look that unusual compared to other spending on the account. Given that, and in the overall context – bearing in mind Miss P had just confirmed the previous payment – I don't think first direct had cause to intervene further.

The next scam payments were sent to different merchants a few days later. First direct wouldn't have known the payments to W and G were related to each other – or to the payments previously sent to R. And again, these merchants were also financially regulated firms, which arguably made the payments look less risky. I also don't consider the individual or overall amounts to look particularly suspicious in amongst the normal account use.

I'm conscious the investigator's view mentioned a credit received on 12 January 2025, which he said was used to fund the payments. But given the audit information I've been provided with for the scam payments, I think this was paid in after the first two scam payments had been made. Furthermore, I'm conscious the account balance wasn't depleted at any point. So I don't think the credit into the account made the later scam payments look particularly suspicious. Rather, it looked like the account was being maintained to factor in planned spending.

The investigator also flagged the overall level of spending at the time of the scam, mentioning a further payment of around £1,800 (sent to "M" – who Miss P holds a credit card with) which he said was sent on the same day as the payments to R. However, given the lag with card payments showing on the statement, it's not clear if these payments were all made on the same date.

Even if the payments to R and M were made on the same date, the payment to M would have appeared as a regular payment to an established payee. So I don't think this would have made the overall account activity look particularly concerning.

Overall, I don't think first direct should fairly be held at fault for not preventing the scam at the time. For the reasons given above, I don't think it had cause to intervene further. But even if I were to conclude it should have questioned Miss P directly about the payments, I'm not persuaded it's likely this would have uncovered the scam.

There are a few reasons for this. While I have seen screenshots of some messages between Miss P and the scammers, it doesn't appear we have a complete record of all this contact. I would want to see that to get a fuller picture of how the scam unfolded – to help gauge how Miss P was likely to have responded to questioning from first direct.

This is particularly important because I have found that M spoke to Miss P about several payments she sent R in connection with the scam. During one of these calls, Miss P said she was sending money to a family member. That could be an indication she was coached by B into giving a cover story if any payments were flagged for checking. And if first direct wasn't made aware of the true purpose of the payment(s), its ability to identify and protect Miss P from the scam risk would have been hampered.

Additionally, I'm conscious the scam payments were sent on to the scam via R and W. I'd also want details of how these funds were sent on, and of any contact Miss P had with either firm about these payments/her account(s) – again to help establish how she was likely to have responded to further intervention by first direct, as well as to verify her loss. Without this, I'm not persuaded, on balance, that it's likely further questioning would have uncovered the scam – as it's unclear first direct would have been put in a position to accurately assess, and warn Miss P, about the scam risk.

I've considered if there are any other reasons why it would be fair to expect first direct to compensate Mr M and Miss P. As the funds were sent on via other, genuine merchants providing financial services to Miss P, I don't think first direct could have done more to recover the funds when the scam was reported. While there is a voluntary chargeback scheme for card payments, this only covers disputes (in limited circumstances) with the merchant paid directly. Whereas Miss P's dispute is with the scammers who the funds were sent on to.

I understand some of the disputed payments were still showing as pending on Miss P's statement when she reported the scam. But as she had already completed all the steps to authorise these payments, first direct couldn't prevent them from going through.

I know Miss P considers this outcome unfair, and doesn't feel it takes account of the toll of the scam. I know this will have had a big impact on her – not just in terms of the financial loss, but also the upset and stress caused. But my role is to look at what fault or liability first direct holds for what happened.

I appreciate this will be disappointing for Mr M and Miss P. It's clear Miss P has fallen victim to a cruel scam here. However, for the reasons explained above, I'm not persuaded first direct caused or contributed to her fraudulent losses. I therefore don't think first direct needs to reimburse Mr M and Miss P's loss or otherwise compensate them.

My final decision

For the reasons given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Miss P to accept or reject my decision before 31 July 2025.

Rachel Loughlin
Ombudsman