

The complaint

Mrs E complains that HSBC UK Bank Plc trading as First Direct (First Direct) didn't do enough to protect her against losing money to a scam.

Mrs E has used a representative to bring her complaint. But, for ease of reading, I'll mostly just refer to Mrs E herself where I also mean the representative.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide an overview of some of the key events here. In September 2022 Mrs E was introduced to an opportunity by a friend that she had previously worked with back in 2016/2017. The 'opportunity' was with a business I'll refer to as 'V'.

Mrs E says she was told that if she paid money to buy an education package, she would receive a return of around 10% per month on what she'd paid. She would also receive money for introducing others and she describes a popular online group / community with frequent calls and evidence of physical events that took place across the world.

Ultimately Mrs E made the below transfers from her First Direct account towards the scam. All the payments were sent to a legitimate cryptocurrency exchange 'B'. From there cryptocurrency was purchased which was sent on to V. Mrs E would then see those funds on the platform that V provided. Mrs E has specified certain payments that she isn't seeking from First Direct but I've included some of them here for a full picture. Several of the payments were also made on behalf of others with money they'd sent to Mrs E's First Direct account.

| Date | Amount |
|-------------------|--------|
| 25 September 2022 | £1 |
| 26 January 2023 | £173 |
| 27 January 2023 | £32 |
| 1 February 2023 | £66.22 |
| 3 February 2023 | £500 |
| 3 February 2023 | £4,500 |
| 15 February 2023 | £2,920 |
| 20 February 2023 | £100 |
| 24 February 2023 | £780 |
| 30 March 2023 | £1,000 |
| 6 April 2023 | £2,000 |
| 6 April 2023 | £1,500 |
| 6 April 2023 | £500 |
| 4 May 2023 | £1,000 |
| 10 May 2023 | £3,000 |
| 11 May 2023 | £4,397 |
| 12 May 2023 | £1,040 |

Mrs E says she thought something might be wrong when people in the online community started having problems receiving funds. Ultimately, she concluded that she'd been the victim of a Ponzi scheme and in July 2024, complained to First Direct.

First Direct didn't offer any redress and the matter was referred to our service. One of our Investigators didn't recommend that the complaint should be upheld. In summary she thought First Direct should've provided a warning around the time of the £4,500 payment on 3 February 2023, but she wasn't persuaded this would've made a difference. Mrs E disagrees and has asked for an Ombudsman to review her complaint.

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 reached the same overall outcome as our Investigator and for similar reasons. I know this will be disappointing for Mrs E, so I'll explain why.

It isn't in dispute that Mrs E made the payments listed above. And the starting point is that First Direct are expected to follow the payment instructions provided by their customers in line with their mandate to do so and the terms of the account. However, First Direct should also be alert to the possibility of fraud and scams and should do what they reasonably can to protect their customers against financial harm in this regard.

With this in mind, I've looked at the account activity prior to and around the time of the payments Mrs V is seeking redress for, to help establish how her account typically operated. As our Investigator noted there was a large outgoing payment of £45,000 in September 2022. And there were other outgoing payments such as £3,000 (in November 2022) and £5,000 (in January 2023) which were also genuine activity and not part of any scam. With these factors in mind, I don't think individual payments of the values of those I've set out above, would've appeared as particularly unusual, suspicious or unexpected for Mrs E's account. So ultimately, beyond that which I'll come to below, I wouldn't have expected First Direct to have done more prior to processing the payments.

By the end of 2022 losses to cryptocurrency scams were increasingly prevalent. This is something that both Action Fraud and The Financial Conduct Authority (FCA) had publicly warned about. That being said, I acknowledge that there needs to be a degree of proportionality to balance First Direct's obligations to promptly execute payment instructions and to investigate payments to protect against scams. It wouldn't be reasonable or practical to expect First Direct to stop and check every payment.

When Mrs E instructed her payment for £4,500, faced with a payment of that value, which likely was identifiably going to a cryptocurrency exchange, I think a proportionate step at that time would've been for First Direct to have displayed a warning that covered the common factors of cryptocurrency investment scams, it also would've been an opportunity to have highlighted the FCA warning about B (although this didn't say B were a scam, just that they may be operating in the UK without FCA authorisation). But I agree with our Investigator that I don't think this would've prevented Mrs E from continuing with her payments. Mrs E had been introduced by a close friend and what she was experiencing from her interactions with V wasn't typical of cryptocurrency investment scams. For example, many of the common factors such as celebrity endorsement, unsolicited contact and being required to download screensharing software were absent. It also appears to have been more of a pyramid marketing type scheme. So I don't think a warning about common cryptocurrency investment

scams would've been impactful, as this wasn't the type of scam that Mrs E fell victim to. And I think it's more likely than not that she would've still made her payments following such a warning. In the circumstances of this complaint, I don't think it would've been reasonable to expect First Direct to have gone further than that, as I've covered, the main additional risk factor here was that the payment was to a cryptocurrency exchange. In the circumstances of this complaint, I also don't think it was unreasonable for First Direct not to intervene in any of the later payments. Mrs E had been paying B as a beneficiary for a number of months, and this would've to an extent normalised the activity on her account.

Mrs E has also mentioned that she was vulnerable at the time. I can't see that this is something First Direct were informed of, or that it was something they reasonably should've ascertained themselves. So I can't use this as a basis to expect them to do more here.

Mrs E has also said that the 'spirit' of the Lending Standards Board's contingent reimbursement model (CRM Code) is intended to protect customers who've been scammed. I understand the point Mrs E is making, but the CRM Code explicitly doesn't apply to transfers between a person's own accounts. And even though I accept she's been a victim of a scam, this isn't (on its own) a basis upon which I can tell First Direct to provide a refund (under the CRM code or otherwise). The CRM Code isn't a relevant consideration for this complaint, and unless First Direct failed in such a way that I think it would've prevented the loss or a part of it (which I don't think they did), then I can't fairly direct them to do more.

Mrs E's representative's response to our Investigator's view mentioned that First Direct spoke to Mrs E twice and says that when they did so, the warnings given weren't 'meaningful'. I assume they are referring to the last two of Mrs E's payment being instructed by telephone banking, rather than online. But no scam conversations, were held during these calls and for the reasons I've already covered, I don't think that was unreasonable in this case.

Taking all the information and evidence together, I can't fairly say that even if First Direct had done all I'd expect, that this would've prevented any of the payments Mrs E made. And similarly, as her payments all went to her account with B (which she was in control of), I don't think anything First Direct did or didn't do upon the scam being reported would've impacted whether a recovery could be made. Had funds remained with B, Mrs E already would've had access to them. So whilst Mrs E has suggested both a partial refund and compensation for emotional distress, as I don't think First Direct are responsible for her loss or that they provided poor service, there isn't a reasonable basis upon which I can make such an award.

My final decision

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 25 August 2025.

Richard Annandale
Ombudsman