

## The complaint

Mr G is being represented by a claims manager. He's complaining about HSBC UK Bank Plc trading as first direct because it declined to refund money he lost as a result of fraud.

## What happened

Sadly, Mr G fell victim to a cruel investment scam after he responded to an advert on social media. After a smaller initial outlay that appeared to have generated a profit, the scammers persuaded him to make the following payments from his first direct account to another account he'd set up with an Electronic Money Institution (EMI). The money was then transferred to a cryptocurrency exchange before the currency purchased was transferred to the scammers.

No	Date	Amount £
1	12 Oct 2022	19,990
2	14 Oct 2022	19,000

To fund these payments, Mr G took personal loans. The first was with first direct for £20,000 on 11 October and the second with another lender.

Once the money was in his EMI account, Mr G transferred it to cryptocurrency in a series of smaller payments. He's made a separate complaint about the EMI and, while it didn't agree to compensate in respect of the first payment of £5,000 on 12 October, the parties have now agreed a settlement based on a refund of all subsequent payments with a 50% deduction to reflect Mr G's own contribution to his loss.

Our investigator didn't recommend the complaint be upheld. They felt first direct carried out an appropriate intervention before releasing the first payment, noting Mr G didn't provide accurate information when he was asked about the purpose of the payment or the surrounding circumstances.

Mr G didn't accept the investigator's assessment. His representative argues that the risks presented by the payments, including the amounts involved, the fact they were funded by loans and the fact they were going to an EMI account, meant first direct's intervention wasn't sufficiently robust. It should have asked further open and probing questions about the reason Mr G gave for the payment, which was vague and suspicious. If it had done, his cover story wouldn't have stood up to scrutiny and the scam would have been uncovered.

The complaint has now been referred to me for review.

## 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 conclusions as the investigator. I haven't necessarily commented on every single point raised but concentrated instead on the issues I

believe are central to the outcome of the complaint. This is consistent with our established role as an informal alternative to the courts. In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time.

There's no dispute that Mr G authorised these payments. In broad terms, the starting position at law is that a bank is expected to process payments a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of their account. In this context, '*authorised*' essentially means the customer gave the business an instruction to make a payment from their account. In other words, they knew that money was leaving their account, irrespective of where that money actually went.

There are, however, some situations where we believe a business, taking into account relevant rules, codes and best practice standards, shouldn't have taken its customer's authorisation instruction at 'face value' – or should have looked at the wider circumstances surrounding the transaction before making the payment.

First direct also has a duty to exercise reasonable skill and care, pay due regard to the interests of its customers and to follow good industry practice to keep customers' accounts safe. This includes identifying vulnerable consumers who may be particularly susceptible to scams and looking out for payments which might indicate the consumer is at risk of financial harm.

Taking these things into account, I need to decide whether first direct acted fairly and reasonably in its dealings with Mr G.

*Should Mr G bear any responsibility for his losses?*

I've considered the evidence carefully to decide what's fair and reasonable and, while I accept Mr G believed these payments were being made in connection with a legitimate investment opportunity, I'm not persuaded that belief was a reasonable one.

In making this complaint, Mr G's representative has spoken of the returns he believed he'd earn from the scheme. For example, he was told his initial investment had doubled after only two days. These returns were extremely high and I think he should reasonably have questioned whether this was too good to be true. In addition, he was told payment 2 was necessary to access the profits generated by the original payment but there's no indication he'd been told about costs to withdraw previously.

I'm also mindful that Mr G didn't provide first direct with accurate information when it asked him about the payments. I understand he did this at the instigation of the scammer, but it only hampered any efforts to protect his money and I think he should reasonably have questioned why he was being told to hide the real reason for any payment as that's not something a legitimate person would normally be expected to say.

In the circumstances, I think Mr G ought to have proceeded with great caution. If he'd carried out any further research, for example online searches, I think he'd have discovered his circumstances were similar to those commonly associated with investment fraud. Overall, I think it's fair and reasonable for any amount being refunded to be reduced by 50% to reflect his contribution to the loss.

*The settlement agreed with the EMI*

Mr G has already accepted a settlement whereby the EMI will refund 50% of all payments to the scam aside from the first £5,000. Given what I've said about the responsibility he should

bear, I'm satisfied this means that, aside from the first £5,000, arrangements have already been made for him to receive appropriate compensation and that nothing further is due.

This means I won't be considering first direct's actions in respect of payment 2 as any conclusions I might reach won't lead to further compensation. However, I have addressed the first payment to consider whether further compensation is due for the amount of £5,000 not covered by the settlement agreed with the EMI.

### *Payment 1*

I must take into account that many similar payment instructions first direct receives will be entirely legitimate and that it has a responsibility to make payments promptly. But having considered what it knew about payment 1 at the time, particularly the large amount involved, I think it ought to have identified Mr G may be at risk of harm from fraud.

It appears first direct did identify this risk and required Mr G to speak to two different agents before the payment was processed. During the calls, he was asked about the reasons for the payment and on both occasions he said it was for home improvements. While we now know this was what the scammers had told him to say, it was consistent with the reason he gave when the loan was taken and wasn't in itself suspicious in my view.

I appreciate Mr G's representative believes first direct's agents should have asked more questions about the home improvements he said he was planning. But it seems he was intent on making the payment and I don't think it would have been particularly difficult for him to come up with a plausible response even if he hadn't received more in-depth coaching from the scammers.

Nonetheless, the agents did ask further questions about the circumstances of the payments and again Mr G didn't provide accurate information. For example, he said no one had asked him to move the money, that he'd found out about the EMI from friends (rather than that the scammer had suggested it) and that no one had asked him to mislead his bank about what the payment was for.

Based on the answers it received, first direct didn't identify that Mr G may be falling victim to an investment scam, meaning the warnings it provided weren't relevant to that type of scam and the intervention was ultimately unsuccessful. But the success of any scam intervention is to some extent dependent on the customer providing accurate information about the payments they're making. If Mr G had revealed the true purpose of the payment or answered the agents' supplementary questions correctly, it might have been possible to identify he was paying to a scam and provided warnings that opened his eyes to that fact.

On balance, it's my view that first direct's intervention was broadly proportionate to the risks the payment presented and that it was reasonably entitled to believe the payment was legitimate when it made the decision to process it in line with Mr G's instruction.

I want to be clear that it's not my intention to suggest Mr G is to blame for what happened in any way. He fell victim to a sophisticated scam that was carefully designed to deceive and manipulate its victims. I can understand why he acted in the way he did. But my role is to consider the actions of first direct and, having done so, I'm not persuaded these were the cause of his losses.

### *Recovery of funds*

I've also thought whether first direct could or should have done more to try and recover Mr G's money. But in the circumstances, I don't think anything it could have done differently

would have led to him getting his money back. He transferred funds to an account in his own name and first direct could only try to recover funds from that account. But by the time it was notified of the fraud, the money had already been moved on.

### *The loan*

Finally, I'm conscious payment 1 was funded by a loan from first direct and I've also considered whether the decision to lend to Mr G was a reasonable one.

As stated previously, Mr G said in his application that the loan was for home improvements and I've not seen anything to make me think first direct had a reason to doubt this. In terms of affordability, first direct has provided his bank statements for the preceding months and I don't think these show any particular signs of financial difficulty at the time. Mr G appears to have been in receipt of regular earnings and wasn't using his overdraft, which might have indicated his finances were stretched. I can also see that he'd recently made a final payment on a personal loan that had been costing £146 per month, which should have given him additional scope to afford repayments on the loan from first direct.

Taking everything into account, I don't believe the evidence shows that first direct made an error in lending to Mr G for the stated purpose of the loan.

### *In conclusion*

I recognise Mr G has been the victim of a cruel scam and I'm sorry he lost this money. I realise the outcome of this complaint will come as a great disappointment but, for the reasons I've explained, I don't think any further intervention by first direct would have made a difference to the eventual outcome and I won't be telling it to make any refund beyond the settlement already agreed with the EMI.

### **My final decision**

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 G to accept or reject my decision before 21 October 2025.

James Biles  
**Ombudsman**