

The complaint

Mr and Ms A complain that HSBC UK Bank Plc, trading as First Direct, won't reimburse funds they lost to fraud.

Mr A is the lead complainant in this case, so for ease of reading I will refer to him throughout my decision.

What happened

As the circumstances of this complaint are well-known to both parties, I have summarised them briefly below.

In or around late 2023, Mr A sought the services of a contractor to carry out a building project at his property and was contacted by the representative of a business, who I will refer to as Mr B. Mr B agreed to carry out the works on the provision that a 30% deposit be paid and the remaining balance be paid off in fortnightly instalments.

Between 4 September 2023 and 1 January 2024, Mr A made nine payments from his First Direct account to an account instructed by Mr B totalling £55,250.

After making the final payment, Mr A was dissatisfied with the progress made. Mr B would continually stop and start the project making a number of excuses for the delays. Due to these concerns, Mr A decided to employ the services of a Private Investigator, and it was discovered that Mr B was not using his real identity. It was at this stage that Mr A realised he'd been the victim of fraud and reported the matter to First Direct.

After considering Mr A's claim, First Direct found it had no liability for the loss suffered as it concluded the matter was a private civil dispute rather than an instance of fraud.

Unhappy with that assessment, Mr A referred the matter to our service for an independent review. An Investigator considered the evidence and testimony provided by both parties, but concluded First Direct ought to have reimbursed Mr and Mrs A their loss in full.

First Direct offered to reimburse 50% of the loss suffered, as it said there was little either party could have done to prevent the fraud, and pointed out that some of the work had been completed. But Mr A rejected that offer, stating he was entitled to full reimbursement, in line with our Investigator's opinion.

First Direct continued to disagree that it should provide a full reimbursement, so the matter has now been passed to me to decide.

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.

Considerations

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

There is no dispute here that Mr A authorised the transactions in question. And the starting position in law is that Mr A will be held liable for the transactions he authorised in the first instance. That is due to First Direct's primary obligation to process payments in line with its customer's instructions, as set out in the Payment Services Regulations 2017.

However, First Direct was a signatory to the Lending Standards Board's Contingent Reimbursement Model (the CRM Code) at the time the payments were made.

First Direct did initially argue that this matter didn't fall within the scope of the CRM Code, as it found it was more likely a private civil dispute between Mr A and Mr B. However, it has since changed its position on this and is satisfied Mr A has been the victim of fraud. Therefore, I no longer need to make any findings on whether this falls within the scope of the CRM Code, as First Direct has conceded that it does.

Under the provisions of the CRM Code, firms are expected to reimburse customers that fall victim to fraud, subject to a number of exceptions.

One of the exceptions relevant to this complaint is where First Direct can demonstrate Mr A made the payments without a reasonable basis for believing they were for genuine goods or service, or, the person/business with whom he transacted was legitimate.

Can an exception to reimbursement be relied upon here?

First Direct has acknowledged that this was a "convincing rogue trader scam" and has admitted that any intervention likely would not have prevented Mr A from proceeding with payments.

However, it now seeks to rely on an exception to reimbursement—under the terms of the CRM Code—that Mr A made the payment without a reasonable basis of belief that he was dealing with a legitimate contractor.

Having considered First Direct's submissions carefully, I'm not persuaded by the arguments it has made.

Mr A has confirmed that he did carry out due diligence on Mr B's business. It was listed as a trader within the website he'd posted his advertisement in, and the website itself displayed a green tick on the business profile indicating it had been verified by identity document checks.

Despite these reassurances, Mr A went further and checked the business on similar, reputable online websites which showed at the time positive testimonials and provided no indication of negative reviews or prior fraudulent activity. Mr A cannot evidence these reviews any longer as the business has now been removed from those websites, likely due to its fraudulent activity. But I have no reason to disbelieve Mr A's testimony.

In addition to the open-resource research Mr A carried out, he ensured he was paying a business bank account that corresponded to the name of the business. He done this by sending a test payment to the account for £10 which showed a confirmation of payee match, providing further reassurance he was dealing with a legitimate business.

This meant that the identity of the business had been verified by both the website it had

been found on and the bank account provider where funds were to be sent. For these reasons, I'm unsure what more Mr A could have done to reasonably satisfy himself he was dealing with a legitimate business.

First Direct has argued that Mr A failed to obtain proof of Mr B's identity, address and evidence of materials purchased throughout the project, yet continued to make payments: but this isn't correct. Mr A only requested these from Mr B once he became suspicious in January 2024 and after seeking advice. Prior to this, Mr B—who from previous criminal history is adept at such tactics—managed to feed Mr A several lies regarding his personal circumstances and would attend the site and complete a small amount of works to give the illusion the project was being progressed.

It is clear from reading the messages between Mr A and Mr B that Mr B was persuasive in what he was telling Mr A. He would tactically delay work with excuses of parts of the project coming up against unforeseeable setbacks. Those setbacks would translate to additional payments, and I can see Mr A—who I can infer is not an expert in construction—placed his trust in someone he believed was an expert in their field.

Mr A eventually began to raise the alarm in early January 2024. And this was after the project had stalled again after an agreed Christmas break and excuses from Mr B began again. It was at this stage Mr A sought expert advice and was told that while Mr B continued to correspond with him, he ought to remain engaged and attempt to resolve the issue civilly.

Despite attempts from Mr B to continue to extract funds from Mr A, he refused to make any further payments from this point. And at this stage, Mr A was unaware he was being defrauded. It was only later, when he instructed the services of a Private Investigator, that he discovered Mr B was a convicted fraudster who had been made bankrupt and was using an alias name. So it was reasonable that he continued to engage with Mr B in an attempt to rectify his situation—which at that time was dire due to the condition of his property.

Overall, I'm satisfied when considering all the evidence available on this complaint that Mr A held a reasonable basis for believing that Mr B's business was a legitimate one and that he intended on providing the services paid for. I therefore do not find it fair that First Direct relies upon this exception to reimbursement.

Putting things right

Considering my findings above, under the terms of the CRM Code Mr and Ms A are entitled to a full reimbursement of their loss.

First Direct has argued that Mr A ought not to be provided with a full reimbursement as it is clear some of the services and materials were provided as part of this fraud. I don't find that to be a reasonable or pragmatic approach to this complaint.

I have not lost sight of the fact that Mr B sought to buy and install materials not fit for purpose and not in line with building regulations, likely with the intention to extract further funds from Mr A. Any work carried out by Mr B had to be completely deconstructed so that the project could be started again. Mr A has confirmed that it cost him circa £16,000 to have Mr B's work removed safely. He then had to pay a further sum to have the entire project completed again.

With the few materials that were in fact delivered to Mr A's property, I find it reasonable to offset this against the cost Mr A has paid to have Mr B's fraudulent and unusable build removed, which was far greater in value and still places Mr A at a loss despite a full reimbursement.

For these reasons, First Direct should reimburse Mr A the payments he made in full. It should also add 8% simple annual interest to that amount from the date it declined Mr A's claim to the date of settlement, to reflect the deprivation of those funds during that time.

Our Investigator has suggested that First Direct ought to pay Mr A compensation for declining his claim, but I don't find that to be fair.

While First Direct's decision to decline Mr A's claim was in my view incorrect, it is entitled to decline claims where it deems it has a valid defence against it. The interest I have awarded reflects the deprivation of the funds Mr A has suffered from the decline of the claim to present. I therefore do not find it fair that First Direct should have to pay any further compensation.

As our Investigator has already touched upon, the vast majority of the impact caused here has been from Mr B, and not First Direct.

My final decision

For the reasons I have given above, I uphold this complaint and direct HSBC UK Bank Plc, trading as First Direct, to:

- Reimburse Mr and Ms A £55,250
- Pay 8% simple annual interest on this amount from the date it declined, or ought to have responded to, their claim under the CRM Code.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A and Ms A to accept or reject my decision before 25 November 2025.

Stephen Westlake
Ombudsman