

## The complaint

Ms S complains about the actions of HSBC UK Bank Plc trading as First Direct when she lost money to a scam.

## What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In January 2025 Ms S received a call from a third-party (scammer) pretending to be calling from the Financial Conduct Authority (FCA). After discussing transactions across her accounts, a further call was made to Ms S from another scammer pretending to be from First Direct. Over the course of the day, Ms S received about eleven calls where she was asked to make payments to an account in her name she held with an Electronic Money Institute (EMI) - I'll refer to here as W.

In total Ms S made around £37,700 across thirteen payments to W from her First Direct account. From there she sent £29,618.78 from her account with W to the scammers. The reason for the difference in the amounts transferred is because Ms S eventually realised something was wrong and stopped making payments from W.

Ms S made a claim to First Direct, but it didn't offer her a refund but did offer her £200 compensation for the way it handled its investigation. So, she brought her complaint to the Financial Ombudsman Service.

Our Investigator felt the complaint should be upheld in part. She said that First Direct didn't intervene on any of the payments but should've done more when the fourth payment was made and that this should've been a human intervention which would've broken the spell of the scammers. But any award should be reduced by 50% here with First Direct and W sharing the remaining 50% because Ms S didn't act reasonably when she was transferring the money from W to the scammers. Our Investigator said W should be liable for £6,905.15 and First Direct liable for £4,818. And First Direct should add 8% simple interest to this amount. But because W had already refunded £7,858.13, a difference of £947.98 could be taken off First Direct's total award leaving a total award from First Direct of £3,870.01 with 8% simple interest.

Ms S disagreed and asked for an Ombudsman's review. In summary, she said that First Direct should've done more and that she hadn't acted unreasonably here.

## 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 conclusion as our Investigator and for largely the same reasons. I'll explain why.

But first, I would like to say that if there's a submission I've not addressed, it isn't because I've ignored the point. It's simply because my findings focus on what I consider to be the central issues in this complaint – that being whether First Direct was responsible for Ms S's loss.

It is common ground that Ms S authorised the scam payments. I accept that these were authorised payments even though Ms S was the victim of a scam. So, although it wasn't her intention to pay money to the scammers, under the Payment Services Regulations 2017 (PSRs) and the terms of her account, Ms S is presumed liable for the loss in the first instance.

However, taking into account the law, 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 in order to help protect customers from the possibility of financial harm from fraud.

First Direct's first obligation is to follow the instructions that Ms S provides. But if those instructions are sufficiently unusual or uncharacteristic for the account, I'd expect First Direct to intervene and to ask their customer more about the intended transaction before processing it. I'd also expect First Direct to provide suitable warnings about common scams to help their customers make an informed decision as to whether to continue with the payment. There might also be cases where it's appropriate for First Direct to refuse to follow the instruction if there are good grounds to believe it is being made as a result of a fraud or scam.

Like our Investigator, I'm satisfied First Direct should've been concerned about the payments Ms S was making to the scam, and I think that by payment four First Direct should've provided a human intervention over the phone. By that point, including payment four, Ms S was attempting to send £13,400 to her account with W in the space of four minutes. I appreciate what First Direct has said that W was an established beneficiary. But First Direct in January 2025 should be on the lookout for suspicious payments. It's a well-known fraud tactic in safe account scams to move as much money as possible in smaller payments to avoid detection. So, I'm satisfied that First Direct should've been suspicious of payment four and asked some probing questions to understand why Ms S was making them. Ms S wasn't given a cover story for the payments – she thought she was making them at First Direct's request. So, I don't think it would've taken long for a trained fraud handler to uncover what was actually happening here and I'm satisfied that Ms S would've listened to any clear warnings First Direct would've provided to her.

So, I've considered whether Ms S acted reasonably here. I think our Investigator has reasonably considered Ms S's behaviour throughout the scam – which includes what happened when she made the payments from W to the scammer. That's because if I find Ms S could've reasonably done more to reduce her overall loss to this scam then I think that can reasonably be taken into account.

I note that the payments were sent from W to an account not in Ms S's name at another EMI – who I'll refer to here as R. I think our Investigator reasonably pointed out that it should've appeared strange to Ms S that her money was leaving her account with W (that the scammers had said was safe) and was being sent to another account that wasn't in her name. She was having reasonable doubts about being asked to make the payments to R in Euros and that W took steps to freeze her card but Ms S then reversed that decision so she could keep making payments to R.

As a result, I think it's reasonable to split liability for the total loss here to 50% for Ms S and 25% between First Direct and W. But because W has already offered Ms S more than what

that split awards then any excess award made by W can be taken off First Direct's award here. First Direct's liability here is £4,818. That's based upon the total loss from W to R, the total amount W is responsible for from its account and where it could've intervened and any refunds that were applied by W. Based upon that calculation the amount W overpaid for Ms S is £947.98. So, that leaves a total of £3,870.01 for First Direct to pay Ms S here. And it should add 8% simple interest per year to that amount from the date of the payments to the date of settlement.

Because Ms S sent money to an account in her name at W, the money that wasn't lost to the scam from W was under her control. So, it wouldn't have been reasonable here for First Direct to attempt to recover her funds.

I can see that First Direct paid Ms S £200 when it sent its final response for not doing more when the scam was reported. I think that's a fair offer overall. Ultimately, the scammer is responsible for the distress and inconvenience Ms S has suffered here and her losses. So, I think the £200 that's been offered fairly reflects First Direct's role when providing the service it did when the claim was raised.

### **My final decision**

My final decision is that this complaint should be upheld in part. HSBC UK Bank Plc trading as First Direct must do the following;

- Pay Ms S £3,870.01 and add 8% simple interest per year to that amount from the date of the payments to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 15 April 2026.

Mark Dobson  
**Ombudsman**