

The complaint

Mr and Mrs K have complained that HSBC UK Bank Plc trading as first direct won't refund money they lost to a scam.

What happened

Mr K said he was introduced to an 'investment opportunity' by someone he had been talking to on social media, who turned out to be a scammer. Eventually Mr and Mrs K made several international payments to the scammer from their first direct account. However, the payment which they are disputing is the payment made on 8 February 2024 of £39,005. Mr and Mrs K were under the impression they were investing in cryptocurrency.

Mr K said that this payment was not questioned by first direct, despite its policy to limit cryptocurrency transfers. Mr K believes first direct should have had concerns about these transactions as they were totally out of character and Mr K's other accounts (which he held with third party firms) were blocked when he tried to make similar transfers. First direct said, even if it did intervene, it didn't think Mr or Mrs K would have provided accurate answers to the questions it asked. It feels Mr K would have used his alternative accounts, held with third party firms, to make the payments as evidenced in later transactions.

Mr and Mrs K brought their complaint to our service. Our investigator looked into their complaint. Originally, he felt that first direct ought to have identified the payment as unusual or suspicious in appearance, and it should have contacted Mr and Mrs K before allowing the transactions to go through. However, he wasn't persuaded it would have made a difference if it had done so due to their future activity on this account, and other accounts Mr K held with first direct and other institutions.

Mr and Mrs K didn't agree. Mr K accepted he didn't provide accurate information to the third-party firms who intervened, and asked him to answer questions regarding the transfers he was making. But, he said, this was through 'desperation' due to how much he had invested at that time. Therefore, he says if first direct had intervened earlier, he would have given accurate information.

Our investigator considered Mr and Mrs K's further points and agreed that if first direct had intervened earlier, they were likely to have provided accurate answers to the questions it ought to have asked. He said this was because early chats Mr K had with the scammer (December 2023) showed that he had concerns about such investments and had shared his previous experiences about being contacted by scammers. He had also clarified that he didn't understand much about such investments and believed there were other ways to make good returns through other types of investments. Furthermore, he had commented that he hoped his decision about whether to invest or not wouldn't affect their friendship. As such our investigator recommended the complaint be upheld and said that first direct should refund 50% of the disputed transaction. This took into consideration that our investigator felt that 50% should be deducted due to Mr K and Mrs K's contributory negligence.

first direct didn't agree with our investigator's opinion so the complaint was referred to me to consider.

I issued my provisional findings on 27 October 2025, where is said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In broad terms, the starting position in law is that a bank is expected to process payments that their customer authorises them to make. It isn't disputed that Mr and Mrs K knowingly made the payments from their account and so, I'm satisfied they authorised them. Therefore, under the Payment Services Regulations 2017 and the terms of their account, first direct is expected to process their request, and they are presumed liable for the loss in the first instance.

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

The question then arises whether first direct ought reasonably to have held such suspicions or concerns in relation to Mr and Mrs K's payments - and if so, what might've been expected from a proportionate intervention at that time. Further to that, where there is an interaction between a customer and a bank before a high value payment is processed, I'd expect the bank to take reasonable steps to understand the circumstances of that payment.

So, taking all of this into account, I need to decide if first direct acted fairly and reasonably in their dealings with Mr and Mrs K when Mr K made the payments. Specifically, whether they should've done more than they did before processing them – and if they had, would that have made a difference. I also need to decide if first direct could've reasonably recovered the lost funds.

Having considered the size of the payment, where they were going to and Mr and Mrs K's previous expenditure on the account, I'm satisfied first direct should've intervened on the payment in question. I say this because it was a big increase in value compared to previous payments and an international transfer. So, in my view, there was enough about the characteristics of the first payment and the activity on the account that ought to have been concerning such that first direct should have intervened. This is also supported by the fact that, at a later date (specifically on 28 February 2024), first direct did intervene on a payment of £11,824 As such I am persuaded the payment Mr and Mrs K made on 8 February 2024 of £39,005 carried an elevated risk and as such first direct out to have intervened.

So, with that in mind I have considered what type of warning would have been proportionate given the risk the payment presented. And, given the fact that first direct thought the payment Mrs K attempted to make at a later date for less money warranted human intervention, I am satisfied the payment made on 8 February 2024 warranted the same. As such, I have I have gone on to consider what is likely to have happened if first direct did make contact with Mr and Mrs K. In doing so I have taken into consideration all the information and evidence available, including information from third party institutions. With this type of intervention, I would have expected first direct to have asked open and probing questions to establish the payment reasons and circumstances surrounding the payment, to identify the potential scam Mr and Mrs K were falling victim to and take the appropriate action.

Firstly, I've considered first direct's later intervention of the payment for £11,824. first direct

flagged this as suspicious and made contact with Mrs K. During that call Mrs K was asked what the transaction was for, and she confirmed "cryptocurrency". The advisor explained the transaction would be stopped as there were limits for cryptocurrency payments per transactions and over a 30-day rolling period. Mrs K asked if she could put Mr K on the phone as "he is the one who deals with this". It's apparent from the call that Mr K wasn't aware of the cryptocurrency limits and references transactions he had made previously, not just on this account but also his own account. The payment was stopped, and Mr K was unable to make the transfer. However, it is also important to note, that after this interaction, it didn't deter Mr K from making further payments (from alternative accounts).

It could be argued that if first direct had contacted Mr and Mrs K regarding the payment they made on 8 February 2024, and they were asked what the payment was for, they would have been accurate with the answers they provided. I say this because Mrs K admitted in a later call, that it was Mr K who was involved in the cryptocurrency, so it is likely she would have passed the phone to him. And Mr K, did seem shocked that there was a limit when it came to cryptocurrency transactions. However, I am also mindful, that Mrs K was present when first direct had intervened on 28 February 2024, as such, it would have been harder for Mr K to have provided the answers he gave in later interventions, with first direct and third-party institutions. In any event, I am satisfied that the intervention which occurred on 28 February 2024 didn't deter Mr K making further payments, he simply found alternative payment methods. So, it follows, that I am persuaded Mr K would have done the same if first direct had intervened on this payment.

I have read the content of the chats between Mr K and the scammer. I am satisfied that Mr K was fully under the spell of the scammer at the time the disputed payment was made. Mr K has said to our service that he had doubts about the scam as early as December 2023, and while I appreciate that may be the case, having compared the scam conversations between January 2024 and March 2024, it is clear Mr K was as invested and under the spell of the scam as much in January 2024 as he was in March 2024. I say this because, it he appears to have trusted the scammer and expressed his love for her. and It is clear he sought her approval and said he felt 'lucky' to be in a 'relationship' with her. Secondly, I have seen evidence to show that even when Mr K was provided with robust warnings and evidence it was a scam, he found alternative ways to make the payments.

Furthermore, on multiple occasions, not just with first direct but with other firms too (of which Mr K holds accounts with) Mr K was asked: for the purpose of the payments; if he had met the payee; if he had met her online; and multiple other open and probing questions. And by Mr K's own admission, he didn't provide accurate answers to these questions. By not providing accurate answers on some occasions, it denied first direct and other institutions from being able to identify the potential risk of fraud.

I also note that one of the third party institutions clearly outlined that Mr K was being scammed. It said:

"We believe you are falling into a scam. After research on Google, we found out that the profile picture from the person you are talking on.....has been used under another name in other social media. We advise you to research the person's photo and profile using online searches to see if the image, name, or details have been used elsewhere. Never send money to anyone you have only communicated with online or by phone. Romance scams are very common. They occur when a criminal adopts a fake online identity to gain a victim's affection and trust. The scammer then uses the illusion of a romantic or close relationship to manipulate and/or steal from the victim. The criminals who carry out romance scams are experts at what they do and will seem genuine, caring, and believable. Con artists are present on most dating and social media sites. The scammer's intention is to establish a relationship as quickly as possible, endear himself to the victim, and gain trust. Scammers

may propose marriage and make plans to meet in person, but that will never happen....”

Having read the scam chats, unfortunately this was very similar to Mr K’s circumstances, and despite a very clear, adequate warning from the firm, Mr K proceeded to share the information with the scammer. He said:

*“I objected to my friends being called a scammer, I got profuse apologies from him for making that suggestion. think the payment is proceeding but it’s taken over 1 hour”
Just over an hour later Mr K made remarks to the scammer which indicated that he still believed he was in a relationship with them”*

So, while I empathise with Mr K’s situation, it is clear from the scam chats (at that time this warning was given) he was under the scammer’s spell and had no doubt that their relationship was genuine. The robust intervention didn’t deter Mr K from making the payment, he simply found an alternative method. And again, having reviewed the scam chats, I am satisfied Mr K was as invested on 8 February 2024 as he was when this warning was provided. As such, I am satisfied a robust intervention from first direct on 8 February 2024 wouldn’t have deterred Mr K. And therefore, wouldn’t have prevented Mr and Mrs K’s losses.

Recovery

I’ve also thought about whether first direct could have done more to recover the funds once it became aware of the situation, as in some circumstances the money can be recovered. But unfortunately, when first direct contacted the receiving bank, it did not receive any positive response from them. This is not surprising based on the fact these were international transfers. In any event, due to the type of scam, it is more likely than not that the funds would have been in the beneficiary’s account and likely to have been transferred out immediately.

Consequently, despite my natural empathy for this cruel scam and the situation Mr and Mrs K finds themselves in, I’m not persuaded first direct taking different actions would have prevented the payments being made or the loss that ensued. It follows that I do not consider it fair or reasonable to require first direct to do anything beyond what it has already done for the complaint.

My provisional decision

My provisional findings is that I don’t uphold this complaint.”

Mr and Mrs K responded to my provisional findings with further comments, which I will address below. first direct accepted my provisional findings.

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.

I’ve taken into account Mr K’s very detailed further submissions. I hope he doesn’t take it as a discourtesy that I don’t reply to every point he has made. The purpose of my decision is to explain my findings on the issues I consider key in the complaint.

In summary, Mr K thinks first direct ought to have intervened and verified the payments. And if it had done so it would have made Mr K question if his investment was authentic, as he wasn’t as invested in the scam at that point.

It's not in dispute that first direct ought to have intervened. In my provisional findings I explained that I agreed with Mr K that first direct ought to have intervened via human intervention on 8 February 2024 when Mr K attempted to make the payment of £39,005.

However, while Mr K hasn't provided any further evidence, he has provided a further explanation as to why he feels an earlier intervention (on 8 February 2024) would have unveiled the scam. Mr K has said:

"It is worth emphasising again that had First Direct intervened right at the outset I would not be in this stressed out state that caused me to take desperate measures and fabricate reasons"

While I agree, at the outset Mr K wasn't stressed out, as 'invested' in the investment opportunity or in a desperate state. This isn't in my opinion the driver for why he made the investments. As explained in my provisional decision, it is clear from the scam chats he was under the scammer's spell and had no doubt that their relationship was genuine. And on balance I am satisfied this was the driver for him investing. The robust intervention didn't deter Mr K from making the payment, he simply found an alternative method. And again, having reviewed the scam chats, I am satisfied Mr K was as invested on 8 February 2024 as he was when the warning was provided. As such, I am satisfied a robust intervention from first direct on 8 February 2024, wouldn't have deterred Mr K. And therefore, wouldn't have prevented Mr and Mrs K's losses.

Mr K has said:

"We will never know whether I would have heeded the warnings if First Direct had initially intervened but at that stage I was not committed to the scam and had nothing to lose."

And while I agree with his comments, it is my role to consider what I think is likely to have happened if they had intervened as Mr K suggested. And I am not of the opinion his reasons to invest on 8 February 2024 were the same as later in the scam. I agree at a later stage he may have been acting in desperation and panic. But on 8 February 2024, I am satisfied from reading the entire chat between him and the scammer he was heavily under the spell of the scammer for the reasons I highlighted in my provisional findings.

As such, my final decision remains the same as my provisional findings.

My final decision

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 K and Mr K to accept or reject my decision before 15 December 2025.

Jade Rowe
Ombudsman