

## The complaint

Mr D complains that HSBC UK Bank Plc trading as first direct won't reimburse him after he made payments towards an investment that later turned out to be a scam.

Mr D is professionally represented in bringing his complaint, but for ease of reading I'll refer to all submissions as being made by Mr D directly.

## What happened

The majority of this complaint has been resolved during its time at our service, so I'll focus on the remaining issue here which is what is considered fair redress.

Mr D initially complained to first direct, as well as another of his banking providers, as he'd made payments towards an investment that turned out to be a scam. When complaining to both banks, Mr D listed his losses from each, as well as credits received from the scam. However, unfortunately, these credits were incorrectly listed by Mr D as being received into his *other* bank account, and not his first direct account which was the actual account that received them. As neither party resolved his complaint to his satisfaction, he brought both to our service.

While his complaints were being investigated by our service, Mr D's other banking provider made an offer to settle his complaint. However, it deducted the credits Mr D had referenced in his complaint letter from the redress it was offering to pay.

Mr D questioned the offer, and suggested that credits deducted should be apportioned across all payments, and not just those where an offer to reimburse was being made. Our service put Mr D's suggestion to his banking provider, who declined Mr D's counter offer. On this basis, Mr D accepted the offer made.

When considering Mr D's complaint against first direct, the investigator considered that HSBC should reimburse the disputed transactions under the Lending Standards Board Contingent Reimbursement Model (CRM) Code minus 'any funds already recovered or refunded'.

First direct disagreed with the investigator's view. It said that the account Mr D made payments to as part of the scam was under Mr D's control and therefore the complaint was not caught by the CRM Code. It also said that it wouldn't have been able to stop the scam from happening even if it had intervened and therefore shouldn't now be held liable. The complaint was therefore referred to me for a final decision.

While considering the complaint, I wrote to both parties informally setting out my thoughts. These were that evidence had been provided that the account Mr D paid was *not* in his name or under his control, and therefore the complaint *should* be considered under the CRM Code. Additionally, it is not a requirement of the Code that a bank needs to have been capable of stopping the scam in order to be held liable – and as Mr D had a reasonable basis for believing this was a genuine opportunity, first direct are still liable for his losses.

However, I also set out that the credits Mr D received from the scam were to his first direct account, and when deciding any reimbursement that should be provided, these could be accounted for by first direct. I calculated that credits received by Mr D equated to 11.79% of losses Mr D incurred to the scam across both his accounts, and that first direct could therefore reduce its reimbursement by this percentage.

First direct agreed to this informal recommendation, but Mr D didn't. In summary, he said that this resulted in a duplicated deduction of returns, leaving Mr D with a portion of his losses remaining, despite his complaint being covered by the CRM Code. Mr D considered that when he accepted the offer made by the other party, both that bank and our service would have known that the bank was deducting returns where it ought not to have - and that he shouldn't be out of pocket due to errors in calculations.

As Mr D disagreed with my informal suggestion, I will now issue my final decision.

### **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 can understand why Mr D doesn't think the offer of redress here is fair, given credits received into his first direct account have already been accounted for in offers by other businesses. However, I have to bear in mind that the complaint I'm considering solely relates to first direct and that the principles to reimbursement that I've set out are in line with our service's approach.

While errors were made on Mr D's other case, the fact remains that this offer was put to Mr D, he did question whether apportionment should apply to his case, but when the bank refused to offer to do so, it was Mr D's decision to accept that offer as a resolution to his complaint. Errors made in Mr D's other complaint were nothing to do with first direct - and therefore I don't think it's fair to suggest that first direct should provide a full reimbursement to counteract these errors.

I understand that Mr D also feels that such errors wouldn't have occurred had earlier offers been made by the banks involved – but our service is here to resolve complaints where there is a disagreement between two parties – and interest is often applied to our recommendations to acknowledge a period that a customer was out of pocket on the basis of a bank not reimbursing them sooner. But again I don't think it would be fair to determine that because first direct didn't make an offer sooner, it should become liable for errors made by other parties.

For these reasons, I remain of the opinion that HSBC should reimburse Mr D under the CRM Code, but that it can make a proportionate deduction for the returns Mr D received.

### **Putting things right**

Mr D made payments totalling £68,900 towards the scam across both of his bank accounts. He received credits to his first direct account totalling £8,126.41, meaning his credits represent 11.79% of his losses.

First direct should therefore provide Mr D with a refund of all scam payments from that account (totalling £27,900) but can reduce the refund provided by 11.79%.

## **My final decision**

My final decision is that I uphold Mr D's complaint. I direct HSBC UK Bank Plc trading as first direct to reimburse Mr D:

- Payments he made to the scam (totalling £27,900) with a 11.79% deduction for credits received.
- 8% simple interest from the date first direct issued its final response letter, until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 9 March 2026.

Kirsty Upton  
**Ombudsman**