

The complaint

Mr M complains that HSBC UK Bank Plc trading as first direct (“First Direct”) have declined to reimburse losses he incurred as the result of an alleged scam.

What happened

In January 2021, Mr M decided to invest his funds into a property investment company. This company will be further referred to as “Company A”. As part of his investments, Mr M made payments to Company A totalling £112,000 between January 2021 and January 2023.

By 2025, Mr M still hadn’t received the contracted returns from Company A. Fearing he’d fallen victim to a scam, Mr M contacted First Direct to request they reimburse his losses.

First Direct investigated the matter but declined to reimburse Mr M on the basis that this was a civil dispute between himself and Company A. Unhappy with this response, Mr M referred his complaint to our service, via a professional representative.

Our investigator looked into Mr M’s complaint but did not uphold it. Like First Direct, the investigator felt that there wasn’t enough evidence to suggest that Mr M was the victim of a scam.

Mr M disagreed with the investigator’s findings as he still felt he’d been the victim of a scam and that First Direct should reimburse his losses.

As the complaint couldn’t be resolved by the investigator it has been passed to me for a 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.

Mr M and his representative has provided detailed submissions to our service in relation to this complaint. In keeping with our role as an informal dispute resolution service, I will focus here on the points I find to be material to the outcome of Mr M’s complaint. This is not meant to be a discourtesy to Mr M and I want to assure him I have considered everything he has submitted carefully.

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 be good industry practice at the time.

In broad terms, the starting position at law is that a bank such as First Direct is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer’s account.

Here it's not in dispute that the payments were authorised, so the starting position is that First Direct isn't liable for the transactions.

There are, however, some situations where we believe that businesses, taking into account relevant rules, codes and best practice standards, shouldn't have taken their 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 interest of its customers and to follow good industry practice to keep customer's 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 M.

First Direct are a signatory of the Contingent Reimbursement Model (CRM) Code which requires firms to reimburse customers who have been the victims of APP scams in all but a limited number of circumstances.

The relevant part of the CRM Code definition of an APP scam requires that the payment was made to: *“another person for what they believed were legitimate purposes but which were in fact fraudulent.”*

The Code also explains that it does not apply to *‘private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier’*.

In order to reach my decision on this complaint, I've considered the purpose for which Mr M made, and Company A received, the payments. And, if there is a significant difference in these purposes, whether I can be satisfied that this difference was as a result of dishonest deception.

It's clear that Mr M made the payments as part of a property investment. So, I've gone on to consider what purpose Company A had in mind and whether that was in line with the purpose Mr M made the payments.

Mr M has put forward numerous allegations about Company A in order to demonstrate that he is the victim of an APP scam. These include:

- Mr M didn't receive the contracted returns, which suggests Company A weren't legitimate.
- Concerns about Company A's filings on Companies House and the frequent resignation and reappointment of directors. Mr M's representatives assert that this type of behaviour is commonly associated with fraudulent conduct.
- Concerns that Company A's bank account was frozen pending investigation by the bank.

I appreciate that the above could be considered concerning, but this doesn't demonstrate that Company A were not carrying out the underlying activities associated with the

investment or that they weren't operating a legitimate investment opportunity at the time Mr M made his payments.

I've reviewed evidence and information our service has received from the beneficiary bank which received Mr M's payments. I'm limited as to what information I can share with Mr M under data protection laws. But the evidence I've reviewed doesn't demonstrate that Company A was operating fraudulently.

In order for me to make the finding that Mr M's payments formed part of an APP scam I'd need to be satisfied that there was a significant difference in the purpose Mr M made and Company A received the payments. Ultimately, I've been provided with no evidence from Mr M or his representative which points to Company A not carrying out any activities associated with the property developments or the investment. As that's the case, I'm not persuaded it has been demonstrated that the purpose Company A had in mind at the time of the payments wasn't in line with the purpose Mr M had when making them.

Lastly, I've considered whether First Direct could've done any more at the time of the payments in order to prevent Mr M's loss. As referenced earlier in my decision, First Direct has a duty to exercise reasonable skill and care, pay due regard to the interest of its customers and to follow good industry practice to keep customer's accounts safe. That said, First Direct has no obligation to protect its customers from bad bargains or poor investment choices.

As I don't believe Mr M and his representatives have proven that he was the victim of an APP scam, I'm satisfied that First Direct haven't failed any of their obligations relating to the prevention of the payments at the time they were made.

I've every sympathy for Mr M as it's clear that this situation has had a large impact on him. But, for the reasons stated above, I don't believe that the payments Mr M made to Company A meet the definition of an APP scam under the CRM Code. I'm therefore unable to say that First Direct has acted incorrectly in this instance or that they should reimburse his losses.

My final decision

My final decision is that I do not uphold this complaint against HSBC UK Bank Plc trading as first direct.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 March 2026.

Billy Wyatt
Ombudsman