

## **The complaint**

Miss C complains HSBC UK Bank Plc trading as first direct didn't do enough to protect her when she fell victim to a scam.

## **What happened**

Miss C has an account with first direct – which she uses for every-day spending – and accounts elsewhere. She opened her first direct account in June 2022.

Miss C says she saw an advert about possible job opportunities on a well-known social media platform on 13 February 2023. She's told us – and first direct – that she was off work and very vulnerable at the time. She says she expressed interest and was contacted by a woman who explained what was involved and added her to a group of people who were already working for the company.

Miss C says she was told she'd need to buy cryptocurrency in order to complete tasks the job involved and that she then started getting pressurised into making more and more payments and couldn't get the money back she'd already paid.

Miss C contacted first direct to say she was being harassed to make more and more payments. Miss C says first direct ended up telling her that she'd been scammed and that there was nothing it could do. Miss C was extremely upset with first direct.

Miss C complained to us in March 2023 saying that she wanted her money back and that first direct should do more to support vulnerable customers. She said that first direct should have sent her a text each time she'd made a payment towards cryptocurrency to confirm the payment was genuine as she'd never bought cryptocurrency before. She also said first direct had admitted responsibility at first and then changed its mind. Finally she said that her other banks didn't allow payments to go through.

One of our investigators looked into Miss C's complaint and said that they didn't agree first direct should or could have done more in this case. Miss C disagreed strongly and asked for her complaint to be referred to an ombudsman for a decision. Her complaint was, as a result, passed to me.

## **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 read the whole of Miss C's file, I can't see that anyone has explained to her what has almost certainly happened in her case. So that's what I'm going to do first. I'll then explain what this means for her complaint.

### ***what type of scam did Miss C fall victim to?***

I can see from the screenshots that Miss C has sent us that she was approached online by someone pretending to work in recruitment. One of the jobs they were advertising offered the opportunity to earn £200 to £250 a day and up to £4,800 a month. And another offered the opportunity to earn £80 to £300 a day. No prior experience was necessary for either job. I accept that Miss C was off work sick at the time – I've read everything she's said, and I can see she had a lot going on at the time – and that she was the only income in her house. So, I can understand why this offer was attractive and why she gave the recruiter her details. In fact, the recruiter was a scammer and the jobs on offer were a scam.

The way this particular scam works is that the victim has to make cryptocurrency payments in order to complete tasks on the understanding that once all the tasks they've been asked to do are completed they'll get paid. The payments start off small and as the scam progresses they get larger and larger. The victim doesn't normally realise they've been scammed until they run out of money and can't get the money back that they've paid in or their earnings. In this particular case the tasks appear to be travel related – that is to say Miss C is asked to complete journeys and vacations. That makes sense given who the job appears to have been for. The scam involves the victim buying cryptocurrency first, and that's what Miss C was paying for when she made payments from her first direct account. Miss C actually bought cryptocurrency. The problem is she then transferred the cryptocurrency she bought to a scammer and that's when she lost her money.

### ***what were Miss C's card payments used for, and what implications does this have?***

Miss C used her first direct debit card to buy cryptocurrency – and she managed to buy cryptocurrency. In other words, Miss C got what she paid for. Because she got what she paid for first direct wouldn't have been able to claim her money back using what's known as the "chargeback" process because in order to make a claim using the "chargeback" process first direct would have had to give a reason for the "chargeback" from a list of reasons. Those include, for example, not receiving the service paid for. Because she got what she paid for none of the reasons first direct would have had to give would have applied. So first direct was right when it said it wouldn't be able to get Miss C's money back using the "chargeback" process.

First direct was also right when it said that it had to make the payments – or, to put it another way, follow Miss C's instructions – and right to say that she'd "authorised" the payments buying the cryptocurrency. But the analysis doesn't stop there. Businesses like first direct are expected to have systems in place to identify unusual transactions and to identify when their customers might be at harm from fraud. I can see that Miss C feels this means first direct should have texted her to check before she made each of her payments that the transactions were genuine. And I can see why Miss C feels that the fact that these were payments to cryptocurrency alone should be enough. But that's not the case.

### ***What payments did Miss C make and were they unusual enough?***

Miss C made five payments to two different cryptocurrency exchanges in February 2023 – namely a payment of £95 on 16 February 2023, two payments of £185 and £335 on 20 February 2023 and two payments of £10 and £695 on 21 February 2023. I appreciate that for Miss C these amounts are significant, but I can see that she's made similarly large payments in the past. In other words, they wouldn't have appeared unusual to first direct. The payments would have had to be for several thousand pounds before we would have expected first direct to intervene, unless Miss C had been making a payment to a merchant that was, for example, already on a regulatory warning list. If that was the case, then we might expect first direct to block the payment automatically.

More businesses have started blocking payments to cryptocurrency automatically, and some now ban such payments. At the time, however, none of these factors would have been a reason for first direct to block the payments Miss C made on her card. First direct now, for example, has a limit of £2,500 for a single debit card payment to cryptocurrency exchanges and a £10,000 limit in any 30-day rolling period. Different businesses have different approaches.

### **My final decision**

My final decision is that I'm not going to ask HSBC UK Bank Plc trading as first direct to do more in this case as I wouldn't have expected it to stop any of these payments and I've now explained to Miss C what has happened here.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 18 March 2024.

Nicolas Atkinson  
**Ombudsman**