

## **The complaint**

Mr R complains HSBC UK Bank Plc trading as first direct keeps stopping him being able to enjoy spending his own money.

## **What happened**

Mr R has a first direct account and has been a customer for many years.

In January 2022 Mr R contacted first direct to ask why it had (again) stopped him being able to use his account. He says first direct told him that mail it had sent to him had been returned and that it had restricted his account for his own safety and the bank's after having tried to call and message him unsuccessfully. Mr R was very unhappy with this, saying it was another example of first direct coming up with reasons to stop him being able to enjoy spending his own money. He said that first direct had no right to "seize" his money or to "ransom" him into doing what it wanted. He complained to us about first direct's response, and gave other examples of ways first direct had "seized" his money in an attempt to "ransom" him.

Our investigator didn't uphold Mr R's complaint saying that first direct had followed its "gone away" process and that other examples he'd given – for example, saying that Mr R needed to provide a mobile phone number in order to carry on banking online easily – were other examples of first direct following rules it had to. Mr R was unhappy with our investigator's findings, and their approach generally to his complaint. So, I've been asked to look into this complaint – either party or both parties can ask for a decision from an ombudsman if they're unhappy with the outcome one of our investigators recommend.

Having looked into this complaint, I issued a provisional decision upholding it – without necessarily agreeing with everything both parties said – and said first direct ought to pay £300 in compensation.

First direct didn't agree that it had acted unfairly when it implemented strong customer authentication – in my provisional decision I said that I didn't think it had acted fairly in this case because it didn't offer Mr R an alternative option at the time – specifically a card reader it subsequently offered. First direct said it didn't start offering card readers until after it had dealt with his complaint, so it couldn't have done so at the time. First direct also said it didn't agree that it hadn't followed its 'gone away' process – despite accepting that there was a delay of two months between it receiving returned mail and blocking Mr R's card. Mr R said he wanted to provide his comments directly to me, so was given my contact details. He hasn't, despite this, replied.

## **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.

In my provisional decision, I said that Mr R has made a lot of good points in the correspondence he's sent us and made a lot of good points when he complained to first

direct. I also said that I can see that he believes the problems he's had with first direct aren't isolated issues, and that they're evidence of something much wider. And I said that whilst I agree with him that first direct's explanations do not always stand up to scrutiny, I didn't agree with some of the wider conclusions Mr R has drawn. I remain of that view, and I'll explain why.

The complaint I'm looking at now started in January 2022 when Mr R discovered that he was unable to spend the money in his account – his money, as he rightly points out. He telephoned and messaged first direct to find out why and was told that his account had been restricted. I'm satisfied, based on the evidence, that first direct had had an item of mail it had sent to the address it had on file returned to it and that this signalled to first direct that its contact details for Mr R might be out of date. That's something I would expect would be of concern to a bank, and I would expect there to be processes in place to check one way or another whether or not its customer's details were out of date and to make sure that the customer's account didn't get compromised. I'm satisfied first direct has such processes in place, and that it would normally, for example, try to contact the customer in question using another channel and, if it didn't hear within a certain time, to then restrict the customer's account. I'm satisfied too that the restriction, if put in place, achieves at least two purposes – first it ensures the account isn't compromised and second it makes it more likely that the customer will get in touch to find out why their account isn't working. I don't, therefore, agree with Mr R – subject to what I'm about to say – that the restriction first direct placed on his account was an attempt by first direct to “seize” or “ransom” his account.

The scenario I've just outlined isn't, however, what happened in this particular case. I'm satisfied that first direct received returned mail in November 2021. In other words, two months before it restricted Mr R's account. I'm satisfied that Mr R operated his account as normal during that time and that there were no transactions to suggest it had been compromised. I'm also satisfied that first direct, once it (belatedly) took action in light of the returned mail it had received, restricted Mr R's account without giving him the normal amount of time it would give a customer once it had tried to contact them. In other words, first direct didn't give Mr R the opportunity to confirm that his address wasn't out of date and that there was nothing to worry about. In other words, I agree with Mr R that first direct didn't follow the process it said it had done. First direct, when it replied to my provisional decision, accepted that there had been a two-month delay but said that it had still applied its gone away policy. But I can't see how first direct can say this if it accepts there was a two-month delay, and one that in its own words it can't explain. That delay meant that most of the spirit behind the process was lost. I don't, however, agree with Mr R when it comes to the conclusions that can be drawn from this. He believes first direct's actions are one of a number of examples of first direct “seizing” or “ransoming” his account. Based on the evidence I've seen, I'm still satisfied that this is an example of poor customer service and a business following a process in circumstances where most of the spirit behind the process was lost rather than a wider issue. I'll explain in more detail why I think this, using another example Mr R has mentioned to us of first direct “seizing” or “ransoming” his account.

In late 2021 first direct contacted Mr R to say that he'd have to provide a mobile phone number if he wanted to carry on banking online easily. I'm satisfied that Mr R wouldn't want to give first direct a mobile phone number even if he had one – on the evidence I've seen it doesn't look like he does. I'm also satisfied, however, that it's important for Mr R to be able to operate online. In the circumstances, I can understand why he says that first direct was, in effect, threatening to disrupt the operation of his account unless he provided certain information. Or to put it another way, that it was using the threat of disrupting his account as a means to force information out of him. I can, therefore, see why Mr R believes this was another example of first direct threatening to “seize” or “ransom” his account and evidence of a wider problem. Based on the evidence I've seen, however, I'm still satisfied that this was part of first direct's implementation of strong customer authentication – it being a payment

service provider that had to, like many others, strengthen its processes in an effort to combat fraud – rather than a wider problem. That doesn't mean I don't think first direct did nothing wrong here. I think it did, and again I'll explain why.

First direct offered its customers two authentication options when it originally rolled out strong customer authentication. They could either use a one-time passcode that would have to be sent to a mobile number or use first direct's app. First direct didn't, in other words, offer a "non-mobile" option despite, for example, guidance from the FCA saying, in summary, that businesses should offer "non-mobile" options too. Instead, first direct said customers who couldn't authenticate using its "mobile" option would have to telephone and get an exemption from strong customer authentication that would last 15 minutes. I don't think that was fair on Mr R as it meant he'd have to call first direct in order to perform various online transactions.

Following Mr R's complaint about this first direct said it was willing to offer him a card reader – for this to work he'd need to be issued with a new card that would be compatible with the card reader. I've seen nothing to suggest that isn't an option that won't work for Mr R, so I think that offer is a fair resolution of that issue – but that what happened before that was unfair. The fact that first direct didn't start offering card readers until after Mr R complained doesn't mean that what happened earlier wasn't unfair. First direct ought to have had alternatives at that point already.

### **Putting things right**

Given everything I've said, I remain of the view that first direct has acted unfairly in this case, but don't agree with Mr R as far as the wider conclusions he's drawn. In the circumstances, I think it would be appropriate to require first direct to compensate Mr R for the distress and inconvenience it has caused him as a result of not being able to operate his account the way he wanted to. I said in my provisional decision that I considered an award of £300 to be fair and reasonable and I've seen nothing since then to make me feel otherwise. So that's the award I'm going to make.

### **My final decision**

My final decision is that I require HSBC Bank UK Plc trading as first direct to pay Mr R £300 in compensation in full and final settlement of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 3 January 2023.

Nicolas Atkinson  
**Ombudsman**