

## **The complaint**

Mr P is unhappy that Ebury Partners UK Limited didn't honour an agreement to exchange the proceeds of an overseas house sale into a more widely traded currency.

## **What happened**

Mr P sold an overseas property and received two offers – a lower offer in British pounds ("GBP") and a higher offer paid in the local currency, which because of currency liquidity issues was difficult to exchange into more tradable currencies such as GBP.

Mr P wanted to transfer the proceeds of the property sale from the overseas country to a British or European account and so approached Ebury to ask whether they'd be able to arrange the exchange of the local currency into either GBP, US Dollars ("USD") or Euros ("EUR") and whether they'd also be happy to transfer the money on to an account he holds in Europe. Ebury indicated they would be willing to do so, and so Mr P accepted the higher property sale offer, payable in the local currency.

Mr P transferred the property sale receipts to Ebury in the local currency. Because the liquidity issues surrounding that currency meant there might be a delay of up to six months before Ebury could arrange a currency exchange, Mr P asked Ebury to send the currency, without exchanging it, to a different account in a different territory, where the local currency would be exchanged into a more tradable currency upon receipt by the receiving bank.

Ebury initially indicated to Mr P that they would be willing to forward his money as requested. But after a considerable delay, Ebury decided they weren't willing to do this. Furthermore, Ebury explained to Mr P that they were no longer willing to exchange the currency as originally agreed, and they returned Mr P's money to the originating account in the country where the property was sold. Mr P wasn't happy about this, so he raised a complaint.

Ebury looked at Mr P's complaint. But they didn't feel they'd acted unfairly by returning the money to Mr P's originating account as they had, and so they didn't uphold the complaint. Mr P wasn't satisfied with Ebury's response, so he referred his complaint to this service. One of our investigators looked at this complaint. But while they acknowledged how what had happened would have been frustrating for Mr P, they didn't feel that Ebury had done anything wrong in how they'd managed the situation. Mr P remained dissatisfied, so the matter was escalated to an ombudsman for a 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 issued a provisional decision on this complaint on 2 November 2022 as follows:

*It seems clear that it was Mr P's request to change the details of the agreed currency exchange that caused Ebury to reconsider their position here. Ebury are entitled to*

*change their position where a new instruction received isn't something they're willing to facilitate. And while I realise that Mr P wanted to find a quicker way of exchanging his money, it also must be recognised that what he asked Ebury to do was very different to what he asked of them initially – and to what Ebury agreed to do.*

*I do feel that it was reasonable for Ebury to have had concerns about the transfer of money to the offshore account that they were being asked by Mr P to undertake, especially as such a transfer wasn't a part of the original agreement they made with Mr P.*

*Ebury has explained that it was because of concerns with this new transfer that Ebury was no longer willing to either facilitate this payment or to offer services to Mr P, resulting in the money being returned to him. That's a decision that Ebury is allowed to make as a business. But what I've gone on to consider here is what's fair and reasonable in all the circumstances of this complaint*

*Mr P may contend that if he'd been aware that Ebury wouldn't have honoured the original agreement, that he wouldn't have accepted the offer for the property payable in the local currency that he did. But having considered all the evidence here, including the ongoing communication between Mr P and Ebury, I haven't seen anything which suggests that Ebury wouldn't have honoured the original agreement they made with Mr P – to exchange the currency and transfer the proceeds to a European account within the stated timescale.*

*It's clear that Ebury's decision to no longer offer services to Mr P was only made as a result of Mr P requesting a change to the original agreement, as detailed above, and this change of plan was only requested by Mr P after he'd confirmed the sale of the property. As such, I don't feel that Ebury should bear any responsibility for Mr P not accepting the alternative offer for his property which would have led to him receiving the sale proceeds in GBP. And this is because I'm satisfied that Mr P accepted the sale offer that he did at a time when Ebury were willing to exchange the currency for him, as had been originally agreed.*

*However, while I don't feel that Ebury have acted unfairly towards Mr P in regard to the actions they've ultimately taken here, I do feel that Ebury could and should have been clearer with how they communicated with Mr P.*

*This is because when Mr P originally suggested to Ebury that he was looking to find ways that would allow the currency exchange to be processed more quickly, the agent he was corresponding with engaged in detailed conversation with Mr P about his intentions, including asking Mr P to agree to a disclaimer which absolved Ebury of the consequences of any of the risks associated with the requested transfer to the offshore account.*

*Considering this email correspondence between Ebury's agent and Mr P in full, I can see that Ebury made clear that there were risks involved with what Mr P wanted. But I can't see that they ever clearly warned him that in attempting to do what he wanted, that this could result in not only the exchange itself being unsuccessful – but in the transaction as a whole being cancelled. I think that meant that Mr P's expectations were unfairly raised and that when Ebury finally cancelled the whole transaction with him – that this would have come as a real surprise.*

*I have to look at both sides of a complaint and here, I don't think it'd be fair to say that Ebury can be held liable for any of the losses that Mr P says he incurred. Nor do I think it'd be fair to tell it to undertake a transaction it's no longer willing to facilitate.*

*But I do feel that Ebury should provide compensation to Mr P for the trouble and upset that he incurred as a result of their not communicating with him more clearly.*

*For this, I think £750 is fair to reflect the impact this had on Mr P in terms of the distress and inconvenience caused. This is in consideration that Mr P would clearly have been shocked and surprised when Ebury cancelled the transaction, and that he's had to contact Ebury and make new arrangements in light of this – which I think it's fair that Ebury recognises its contribution to in terms of the inconvenience here.*

*All of which means that my provisional decision here is that I'll be upholding this complaint in Mr P's favour on the limited basis explained above and instructing Ebury to make a compensation payment to Mr P of £750.*

In my provisional decision letter, I gave both Mr P and Ebury the opportunity to provide any comments or new information they might wish me to consider before I moved to issue a final decision. Ebury confirmed that they accepted the provisional decision, whereas Mr P did provide some comments on my provisional decision for me to consider.

These included that the issue of the local currency's liquidity had meant there had always been a degree of flexibility and changeability to the agreement to exchange the money with Ebury. This was because the exchange would be made into whichever of three potential currencies – GBP, USD, or Euros – depending on which of those three currencies had the earliest available currency exchange slot.

Additionally, Mr P points out that the post-exchange destination of the money would have differed depending on which currency the money was exchanged into, and that if the exchange had been made into USD, then those USD would have been transferred on to the same account which he asked Ebury to transfer the money to in the local currency, and which prompted Ebury's concerns.

However, I don't feel that the email correspondence between Mr P and Ebury paints as clear a picture as Mr P contends here. Indeed, I note that when Mr P initially contacted Ebury he requested for the money to be exchanged into GBP, and that shortly after opening an Ebury account to facilitate the exchange Mr P then explained that he wanted to exchange the money into GBP, USD, or Euros, depending on which was the best option for him.

Additionally, while Mr P mentioned existing UK and European bank accounts, and did also mention that he would need to open a new USD account if the exchange ended up being made into USD's, he didn't initially mention to Ebury the new USD account he would open would be an offshore account.

As such, the initial request for Ebury to receive the local currency and exchange it into a more tradable currency, and then to forward that exchanged currency to a recipient account, did then change such that Mr P was asking Ebury to receive the local currency and forward it on without it being exchanged to an offshore bank account.

Mr P has asked why Ebury would have had concerns about his proposed course of action. But I hope he will understand that asking a currency exchange business such as Ebury to effectively act as a conduit to move non-exchanged currency to an offshore account is an irregular request, and one which I feel it's reasonable for Ebury to have held concerns about. And I remain satisfied that these reasonable concerns were such that it was fair for Ebury to have then made the decision to withdraw their offer of service to Mr P as they did.

But it also remains my position – as per my provisional decision above – that I feel Ebury could and should have communicated more clearly with Mr P, including managing his

expectations and his understanding of what would and wouldn't be acceptable to Ebury. And it was for this reason that I provisionally upheld this complaint and instructed Ebury to pay £750 compensation to Mr P for the trouble and upset he incurred because of the poor communication.

Mr P has asked how I arrived at the £750 compensation amount. Matters of compensation are always subjective. But I've thought about the frustration and inconvenience I feel that Mr P has incurred here, and also considered the framework by which this service awards compensation for trouble and upset – details of which can be found on our website. And having done so I feel that £750 is a fair and reasonable amount.

It must be remembered that this instruction of compensation isn't an award against any tangible financial losses Mr P may have incurred. Indeed, I'm not making any instruction to Ebury regarding Mr P's claimed financial losses, because as explained I'm satisfied that Ebury's actions were fair.

This award of compensation is solely for the upset and inconvenience Mr P has experienced because Ebury's communication with him didn't fairly manage his expectations or provide a reasonable degree of forward clarity as to what actions Ebury would or wouldn't be prepared to undertake.

All of which means that my final decision here is that I'll be upholding this complaint in Mr P's favour on the same limited basis as explained in my provisional decision and instructing Ebury to make a payment of £750 compensation to Mr P as explained above. I realise this might not be the outcome that Mr P was wanting here, but I hope he'll understand, given all that I've explained, why I've made the final decision that I have

### **Putting things right**

Ebury must make a payment of £750 to Mr P

### **My final decision**

My final decision is that I uphold this complaint against Ebury Partners UK Limited on the basis explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 28 December 2022.

Paul Cooper  
**Ombudsman**