

The complaint

Miss B complains that HSBC UK Bank Plc, trading as first direct, put unnecessary barriers in place to her opening a Bonus Savings Account and weren't proactive in making her aware of higher interest accounts that it offers.

What happened

Miss B wanted to open a first direct Bonus Savings Account by transferring money from other accounts. She said first direct told her it carries out credit checks to prevent fraud and money laundering. Miss B said this was ridiculous as she had banked with them for many years, the money was coming from her savings accounts, and she has a credit card which she pays off every month. Miss B withdrew her application for the account.

First direct said its policy is to make these checks. Miss B complained as the account is only for existing customers, and she felt the checks were a barrier to accessing a higher interest rate. Miss B said if first direct could provide a legal reason why the checks are needed then she would happily oblige. If not, she thought first direct should review its policies.

Miss B was disappointed first direct responded to her complaint within a few hours as she felt it hadn't been properly considered. She said first direct allows funds up to £1m to be transferred between accounts and she could open a new bank account elsewhere with less information than first direct required to move funds it already held and could track. She said first direct's money laundering concerns were ridiculous.

In its response to Miss B's complaint first direct said it had explained its process as follows:

'to process your application and confirm your identity, we'll check your personal details eg name, address, date of birth and details of any shared credit or financial history, with credit reference agencies. We may also check the electoral register and other public sources. It's worth bearing in mind the credit reference agency search isn't shown to other providers and is known as an unrecorded entry, if you're giving us information about others it's important you tell them and they know we might search their details. We share your personal information with fraud prevention agencies, they use your information to confirm your identity as well as preventing fraud and money laundering – finding either could affect your finances and even future employment.'

Miss B wants first direct to review its policy for internal transfers to make them easier and that it be proactive in making customers aware of higher interest rate accounts. She wants an apology for first direct's handling of her request and an account backdated to the date of her original request, with compensation for the inconvenience.

First direct apologised to Miss B for the upset to an existing customer where the funds for deposit are held in an existing account. First direct said it had no plans to change its process and handling of these applications. Miss B wasn't satisfied with this and referred her complaint to our service. First direct said it is taking active measures to increase customer awareness of other savings products and services which may be suitable for their needs.

Our investigator didn't recommend the complaint be upheld. He said first direct advised Miss B that a 'soft search' would be carried out, which she thought was unnecessary – and didn't proceed with the application. He didn't think she had been treated unfairly in first direct's

requirements for opening a new account and although first direct responded to Miss B's complaint very quickly it had followed the correct complaints procedure.

The investigator said first direct check all applications including existing customers to ensure it holds accurate and up to date information, as part of its obligation to prevent money laundering. He said soft searches are part of this process and have no impact on a customer's credit file. He said the checks aren't an unreasonable barrier for a product application. He said first direct had made Miss B aware of other savings opportunities, including contacting her in November 2022 about its Regular Saver Account, which she opened in July 2023. He said first direct are taking steps to improve this part of its service.

Miss B disagreed with the investigator. She said he had focused on the bank's policy rather than her information. She appreciated that banks make checks, but this is based on their 'needs', not a legal requirement. She said the government website lists when banks need to apply due diligence measures, but aren't relevant to a customer opening a further account and first direct would access credit agencies providing basic information including address.

Miss B said the investigator hadn't mentioned her point that first direct send her credit card statements and so is aware of her address. She said policies should be reviewed according to the impact on end users, including existing customers. Miss B said it's clear first direct's policy is beyond the legal requirements and is too generic and unreasonable. She said first direct had never contacted her before to check her information is up to date and is accurate.

As to money laundering, Miss B felt the interpretation of a 'new account' is incorrect as she was effectively transferring funds between accounts. Miss B said first direct hadn't contacted her about its Regular Savings Account, she was already aware. And she hadn't requested compensation for the service, she wanted the account backdated, and payment for the time and energy to raise this complaint. Miss B requested an ombudsman review her complaint.

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.

Miss B said first direct are putting unnecessary barriers in the way of the existing account holders to gain a higher interest rate on funds already held. And has said that this in contrast to the movement of funds between first direct accounts which could be applied in her circumstances if first direct didn't treat her application as for a new account.

I can see that Miss B feels strongly on this subject and that this is partly due to how long she has banked with first direct. Miss B believes that first direct should review and change its processes. I've looked at first direct's handling and approach to Miss B's application for the Bonus Savings Account to see if it acted in accordance with its processes and to see if it has treated her fairly.

Businesses must follow the regulations set out by law and by the Financial Conduct Authority as to knowing their customers and combatting financial crime, such as money laundering. The regulations aren't prescriptive, and businesses are entitled to adapt and apply these requirements to their policies and systems in order to provide a complete suite of procedures that meet their banking arrangements. Our service is not the financial regulator and so we don't tell businesses how this should be approached, we would only intervene if we thought the business was acting outside of the law or applying its checks unfairly to a customer.

Miss B feels that first direct is acting outside of the law, but I don't agree. As I have said, it's up to the business to put in place the appropriate measures and first direct in common with most other regulated business take a risk-based approach to financial crime and have suitable systems and processes in place. I haven't found that first direct acted outside of the law in its dealing with Miss B's application.

Miss B feels that the checks are unnecessary as she is an existing customer. I understand her frustration about this, particularly as she receives credit card statements from first direct, but in my experience first direct's approach is a common response to the regulations within the banking industry, as are the consequences of non-compliance. With respect to Miss B, it isn't for the customer to tell the business what its checks should consist of in order to meet the expectations of the law and its regulators. If a customer feels that the checks are unwarranted and unfair then it is open to them to start an account with another provider. However, as I have said, the requirement for the information first direct requests of its customers is similar to the checks and processes of other banks. And I haven't found that first direct has treated Miss B differently to any other customer in her circumstances.

Whilst I take Miss B's point about checks on existing customers being unnecessary, I think first direct and other businesses may find a customer's circumstances or personal information has changed by carrying out these checks and that may become a regulatory matter. This accords with the intention of the government advice that Miss B passed on as part of her submissions, even though she was applying as an existing customer and first direct has access to information she has previously provided.

Having considered all of Miss B's points and the procedures that first direct put in place, I do not agree that first direct has made it difficult for Miss B to apply for the new product. First direct described the checks to her (see above) and I think these are correctly described as 'soft searches'. In other words information obtained from readily available sources without implications for the customer. I have seen a designation of an 'internal account' when an existing customer applies – these are new accounts and first direct is entitled to follow its procedures.

Miss B was entitled to refuse to complete the search, but that means first direct didn't open an account for her and still don't have to until she agrees to the checks, because the soft search is a requirement for the account to be opened. I don't think the checks first direct attempted to carry out were by their nature disproportionate or unreasonable to what was required by the regulations.

It isn't the main point of Miss B's complaint, but she has said first direct should be proactive in alerting its customers to potentially better account offerings. She also said she is well aware of the account that first direct contacted her about. First direct isn't required to proactively contact customers about its other savings products and this is not currently a service it offers. Information about first direct products and services is available online, or upon request. First direct has said it has evaluated its approach to alerting customers in line with FCA expectations.

I hope that setting things out as I've done explains how I've reached my conclusions and, even though this isn't the outcome Miss B hoped for, she will at least feel that the Financial Ombudsman Service has fully considered her complaint.

My final decision

For the reasons I have given it is my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 6 May 2024.

Andrew Fraser
Ombudsman