

## The complaint

Mr H complains that HSBC UK Bank Plc trading as first direct was not offsetting the balance of his current account to his mortgage.

## What happened

In 2004, Mr H took out a mortgage with first direct. The mortgage had an offset facility, where the money Mr H held in bank accounts with first direct was offset against the mortgage and reduced the amount of interest he paid. I understand that Mr H held a current and savings accounts with first direct. Initially all accounts were linked to the mortgage and offset.

In 2011, Mr H took a further advance on his mortgage. At that time the current account was linked to the further advance. The savings accounts remained linked to the main mortgage.

At some time before 2017, the further advance was repaid. We don't know exactly when as first direct does not have records going back that far. But the current account remained linked to the further advance, rather than the main mortgage. As a result, the balance of that account has not offset the main mortgage balance since at least 2017.

Mr H considers that first direct has not treated him fairly. He said he believed the current account was linked to the main mortgage and that all of the accounts were netted. He said there is no reason why he would have chosen to link his current account to the further advance. He doesn't consider that first direct had properly considered the scale or timeframe of the issue.

Mr H said that first direct was not treating him fairly as the purpose of the offset mortgage is to reduce interest by offsetting other balances. He said not customer would actively decide not to have an account linked and it is hiding behind the small print when it was never made clear to him that he needed to do that.

I issued a provisional decision. I said I couldn't consider any events before 30 August 2017 as they were referred outside the time limits in our rules. I did not propose to uphold the parts of the complaint I could consider. My provisional findings, which form part of this decision, were:

*I have some sympathy for Mr H. I understand his point that first direct is relying on a technicality. He has had a significant amount of money in his current account but he has not had the benefit of offsetting the interest – simply because the account was linked to the wrong part of the mortgage.*

*In an effort to resolve things I asked first direct if it would link the current account to the main mortgage and backdate the offsetting benefit Mr H would have received. I pointed out that it wasn't clear that there was any real loss to first direct in doing so. But it did not agree to this. And I'm afraid looking at everything, I don't consider that first direct has acted unfairly or unreasonably to the extent that I could uphold this complaint. I will explain why.*

*When Mr H took out the further advance and linked the current account to the further advance, first direct did not give him mortgage advice. We also have evidence that in 2011 Mr H made a phone call to link the current account to the further advance. While I can't consider the sale of the further advance – this is useful background that the way the further advance was set up appears to have been Mr H's choice, rather than something that first direct recommended.*

*The terms and conditions of the mortgage say, as relevant:*

#### **10. Combined Accounts**

10.1 When you apply for the Mortgage Loan, we will ask you to propose the accounts that you would like to be the Combined Accounts. We will consider that proposal and following First Drawdown we will confirm to you in writing the Combined Accounts. You, or any of you, may propose that we change the Combined Accounts, for example by introducing new accounts or removing existing accounts, at any time after this by telephoning us or writing to us and, if we agree to treat such accounts as combined, they will become Combined Accounts. We will confirm to you in writing in one of the annual statements that we send to you in accordance with clause 18 below which accounts are Combined Accounts as at the date of that statement. It is your responsibility to contact us if you want to change the Combined Accounts by introducing a new account or removing an existing account.

*I consider the terms and conditions set out clearly that it is the borrower's responsibility to decide which bank accounts are linked to each part of the mortgage.*

*I am satisfied that first direct gave Mr H enough information to understand that the current account was not linked to the main mortgage and remained linked to the further advance, that had zero balance. I also note that in 2014, first direct wrote to Mr H regarding this cancellation of a standing order to the further advance. It said that there needed to be at least one bank account linked to the further advance for it to remain open.*

*There was no obligation for first direct to review Mr H's arrangements or to advise him that he might be better off linking accounts to the main mortgage.*

*Overall, it was Mr H's decision to link the current account to the further advance, the terms and conditions he agreed to set out it was his responsibility to decide which accounts were linked and first direct gave him enough information to show how the mortgage and further advance were set up and which accounts were linked. Therefore, I don't consider first direct has acted unfairly or unreasonably in administering the mortgage, further advance and linked accounts in the way it has.*

HSBC responded to say it had nothing further to add and accepted my provisional decision Mr H did not accept what I said. He made a number of points, including:

- I'd determined that the complaint was out of jurisdiction as it regarded a one off event pre-2017. But in fact, it was an ongoing issue.
- There is no transparency about how first direct calculates the monthly interest and which balances are netted. For most of the period when interest rates were very low it would be impossible to reasonably know there was a problem. That only came to light when interest rates rapidly increased and the amount of interest charged each month went up

accordingly.

- It was unfair for first direct to unduly enrich itself by thousands of pounds at his expense on the back of a technicality. That was not treating customers fairly.

### **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 am sorry if my provisional decision wasn't clear. I can't consider any events before 30 August 2017. But I can consider what happened after then. Mr H is correct that there was an ongoing event in the current account not being linked to the main mortgage.

I understand Mr H's point that there was no way for him to see how the interest was being applied and what benefit he was receiving from the offset. But Mr H was sent annual statements for both the main mortgage and the further advance. Statements were sent for the further advance even though there was zero balance because it had a redraw facility.

The statements set out in a clear, fair and not misleading way which of Mr H's bank accounts were linked to which part of the mortgage. I am satisfied that first direct gave Mr H enough information for him to understand that his current account was linked to the further advance and not the main mortgage.

I can't see that first direct ever told Mr H that it would manage the linked accounts for him – or that it would make sure that he was receiving the maximum benefit from offsetting. The terms and conditions of the account set out that it was Mr H's responsibility to add and remove linked bank accounts from the mortgage.

Mr H considers that first direct has not treated him fairly. I know why he thinks that. But it has administered the account in the way it said it would and it gave Mr H enough information to show how the mortgage, further advance and linked accounts were set up. Overall, I don't consider that first direct has acted unfairly or unreasonably.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 28 May 2024.

Ken Rose  
**Ombudsman**