

The complaint

Mr W complained to us about the actions of HSBC UK Bank Plc, trading as first direct ('first direct') in relation to activity involving the current and savings accounts he held.

What happened

Your text here In May 2023 Mr W made an arrangement with first direct for all account communications to be notified to him by online.

Mr W was out of the country between January and March 2024. During this time, his standing order arrangement to have £300 moved from his current account to his savings account each month was continuing to operate. This led to sums being taken on 29 January and 28 February 2024. As a result, the unarranged overdraft facility was triggered on his current account. Mr W didn't discover this until 5 March 2024, when he saw a letter from first direct dated 1 March 2024 that had been posted to him, notifying him that he needed to clear his unarranged overdraft balance. He then immediately put his account back into credit.

Our investigator, having looked into the complaint, thought first direct hadn't done enough to inform Mr W that his current account had gone into the unauthorised overdraft. She thought that first direct was wrong not to have given him online access to the letter dated 1 March 2024. So she recommended first direct should refund Mr W any interest and fees he'd incurred as a result and amend his credit file accordingly. Finally she told first direct to pay Mr W compensation of £75 for the distress and inconvenience he'd been through.

First direct disagreed with our investigator's finding. It said it had followed Mr W's request by making his account statements available to him online. But it also said the letter of 1 March 2024 was an automated letter sent by post and first direct didn't have the facility to send it by email or to make it available to Mr W online. First direct also pointed out that even if this had been possible, the letter simply reflected the account position since 29 January 2024, when the account was already overdrawn. So the reporting on his credit file would have been exactly the same. First direct also said Mr W ought to have been aware that the monthly transfer of £300 would be taking place.

Having considered our investigator's further response, first direct agreed it would be willing to pay £75 by way of compensation for distress and inconvenience. It also advised that it had sent text messages to Mr W telling him that his account had gone overdrawn, on 29 and 30 January 2024. Mr W had already stated in his original complaint that he wasn't using his UK mobile phone SIM card when he was abroad and so wouldn't have seen these messages. First direct said Mr W ought to have been provided the details of the other SIM card he was using overseas. First direct also maintained its position that it won't agree to amend Mr W's credit file as the account would have gone overdrawn regardless of the type of communication that was sent.

Mr W said if he'd been sent an email telling him to check his account online as it was about to go overdrawn – or even just after it had first gone overdrawn - he would have rectified the situation immediately by adding more funds.

I issued a provisional decision on 5 November 2024. Essentially, I thought that Mr W had a reasonable expectation that the instruction he'd given to first direct in May 2023 to send all communications by email meant that he would have been kept informed of all his account activity. And I thought that included his current account going overdrawn. I set out an extract below:

"I think the important issue here is that in May 2023 Mr W requested that first direct stop sending him anything by post and that all account communications going forward should be made by email. From the transcript of the online discussion I've seen, first direct had agreed to that. I note that it also said that whilst it wouldn't send him his account statements by email, he would receive notification of them online. Mr W agreed to this. I think that means it was reasonable for him to expect that all future account communications would be made either by email or via the first direct online platform or app.

If first direct was unable to ensure that Mr W would receive all account communications by email or online process, it was up to them to point it out. But that didn't happen. So, I don't think it was unreasonable for Mr W to have gone overseas thinking that if first direct had to reach him it would do so by one of those methods. It follows that I don't think it's fair to say that Mr W needed to tell first direct he had changed his phone number when he was overseas.

To summarise, Mr W had a reasonable expectation that first direct would use email or online methods to keep him informed of all account activity. As that didn't happen he incurred charges, interest and an adverse marking on his credit file as a result. I therefore think first direct needs to take the necessary steps to put Mr W back in the position he would have been in had he been informed that his current account balance had gone into the negative, so he could take immediate action to correct it by adding funds.

I should also say that I have no reason to think, nor has it been suggested, that Mr W was not in a position to take the corrective action of putting his account back in funds. In fact, once he discovered what had happened, he put money back immediately so that it was back in credit. It's therefore my intention to uphold this complaint so that first direct can put things right."

Response to my provisional decision

Mr W acknowledged receipt of my provisional decision and said he had nothing further to add.

First direct has responded with a number of points. It accepts that it should pay Mr W £75 for his time and inconvenience. It also says that:

- the chat agent who Mr W spoke to in May 2023 could have been clearer
- Mr W's request regarding account communications only related to postal communications being sent to him instead of by post
- first direct doesn't offer a personalised banking relationship or monitor customers' accounts for them. Nor does it send email notifications when an account goes overdrawn. But it does send overdraft text alerts
- to reiterate, had first direct's letter of 1 March 2024 been emailed to Mr W - meaning that it would be received four days earlier than by post – the impact on the credit file would still be the same.

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've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I am grateful to first direct for the points they have made in response to my provisional decision. However, I'm still going to uphold this complaint and I'll explain why.

First direct says that Mr W only made his request in relation to postal communications, so it wouldn't have made any difference to what happened. I think Mr W's request to have all account communications sent to him by email is straightforward and clear. First direct says that because earlier in the online chat Mr W had also said "*please can you stop sending me anything by post,*" it shows his request only related to postal correspondence.

I don't agree. First, the transcript of the chat when Mr W made his request shows that, having made his request to receive all communications by email, Mr W also agreed to receive his statements online or via the banking app. I've also seen the transcript of when Mr W first made his complaint to first direct. In that, he refers to another banking provider he uses that has the facility to alert him if his account doesn't have sufficient funds to meet a payment. So, I don't think it's unreasonable for Mr W to have expected that first direct would similarly be able to give him advance notice.

First direct says it texted Mr W to let him know he was going overdrawn. Those texts didn't arrive because Mr W was overseas and had changed the SIM card on his phone. But I consider it was reasonable for Mr W to expect that his request for all account communications to be made via email would include being able to receive first direct's account alerts in the same way.

I would like to add here that I do understand the point first direct makes about not providing an online alert service. But I think the transcript of the online discussion with the first direct representative is enough to show that Mr W had good reason to think he would be notified if he went over his available balance. As first direct acknowledges, the first direct representative at the time could have been clearer. Had they made it clear, for example, that Mr W would still be receiving some account notifications by text, then he would have had the necessary awareness of this possibility.

So in summary, I remain of the opinion that, in the specific circumstances of Mr W's complaint, in addition to the £75 compensation, it is reasonable to expect first direct to remove the adverse information from Mr W's credit file and refund all interest and fees it charged Mr W in relation to this issue.

Putting things right – what first direct needs to do

It still follows that I think it's fair and reasonable for first direct to refund all interest and fees it charged Mr W and remove all adverse information in connection with this issue from Mr W's credit file. I also think first direct should pay Mr W £75 to reflect the time and inconvenience he has been put to in having to respond to first direct's actions.

My final decision

For the reasons I've set out above, I am upholding this complaint and require HSBC UK Bank Plc, trading as first direct, to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 18 December 2024.

Michael Goldberg

Ombudsman