

The complaint

Mr W complains about the way in which his account with HSBC UK Bank Plc trading as First Direct was handled and with the information he was given following some disputed transactions.

What happened

On 26 September 2024, Mr W was abroad when he noticed two payments of £450.47 were pending debit on his First Direct account. As he did not recognise the payments, Mr W called First Direct and raised his concerns. First Direct reversed the two payments to its fraud suspense account and raised disputes for the transactions. Later the same day, Mr W called back and said the transactions were for a hotel that he planned on staying at on 25 and 26 October 2024, and the hotel had debited the account a month earlier than he expected.

First Direct was unable to reverse the fraud disputes. The disputes raised were not challenged by the hotel. Mr W was then contacted by the hotel on 21 October 2024 and informed that the payments had been taken back from its account, so his hotel bill was unpaid. Mr W liaised with both the hotel and First Direct to try and get to the bottom of what had happened and received incorrect information from First Direct. On 22 October 2024, First Direct contacted Mr W and informed him the funds had been located in its fraud suspense account and it applied the transactions back to his account.

Mr W then contacted the hotel and asked it to take two new payments from his account, which it did. On 6 November 2024 Mr W was informed by the hotel that it still had not received payment. Mr W queried this with First Direct who informed him that the issue was on the hotel's side. Mr W obtained evidence from the hotel to show it had not cancelled the transactions as First Direct was intimating, but First Direct maintained the hotel cancelled the transactions.

Mr W raised a complaint. In addition to his concerns about the above, he also raised that he attempted another transaction in October 2024 which did not go through. First Direct defended its actions. It said it had not cancelled the payments made to the hotel and under banking regulations, it could not do so once payments have been authorised by the cardholder. It said it made an accounting error and should have placed the credit for the transactions in his account sooner than it did. It further said this was carried out correctly as it expected the hotel to challenge the fraud claim. Lastly, it said it could not locate another declined transaction in October 2024.

Mr W raised his complaint with our service. He had not received a response from First Direct about what banking regulations it is referring to and wanted an explanation of what had happened here. He further wanted a credit of all the disputed transactions made to his account, and outlined the distress and inconvenience caused to him by this matter.

First Direct reviewed the complaint again and recognised that it had made errors. It confirmed that it had failed repeatedly to recognise that when the hotel tried to take payment from Mr W's account again on 24 October 2024, its systems had moved the payments to its fraud suspense account to flag them as fraud for a second time. It apologised for the poor

service and misinformation Mr W received and offered £300 compensation. It further said it could not refund the transactions as Mr W's account had never been debited for those amounts, so he had not suffered a loss. It said it could see a declined transaction of £22.98 on 3 October 2024 but due to the time elapsed, it could not say why this happened.

Our investigator put this offer to Mr W who declined to accept it. Our investigator therefore issued an opinion in which she said she thought the offer made was fair. Mr W asked for an Ombudsman to review the complaint. He said he was lied to when his complaint was handled, it did not investigate the matter fully and relied on legislation to defend its actions which it would not disclose to him, the bank ignored third party evidence, and First Direct made a further error when it declined his transaction of £28.99 to another provider. Mr W asked for an explanation of this matter as well. Mr W said he thought it would be fair for First Direct to pay him the quantum of the cancelled payments along with compensation. So, the complaint has been passed to me to decide.

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 would like to start by saying that I have provided a brief summary of the events that occurred above. I intend no discourtesy by this and can assure both parties that I have taken all the information provided into consideration when reaching a decision on this complaint.

In this decision, I'll concentrate my comments on what I think is relevant. If I don't comment on a specific point, it's not because I've failed to consider it, but because I don't think I need to comment in order to reach a fair and reasonable outcome. Our rules allow me to do this, and this reflects the nature of our service as a free and informal alternative to the courts.

Two transactions of £450.47

It is no longer in contention that First Direct has made some errors in both the handling of the account and the handling of the complaint. It seems to me that the first thing Mr W requires is an explanation of what has happened.

When Mr W first raised concerns about the two payments, First Direct took prompt and immediate action, isolating the payments into a fraud suspense account and raising disputes. This meant that when he called back again later to confirm the transactions were genuine, there was one thing that First Direct could not stop – and that was the fraud dispute. As the merchant didn't challenge the dispute the funds, the reversal of payment was successful. However, First Direct accepts that it should have then moved the credits from the fraud suspense account to Mr W's account sooner, and this is the only error it made in relation to the first set of transactions.

With the second transactions, likely due the marker already on his account due to the first set of transactions, when the hotel tried to take payment again, the payments were moved to the fraud suspense account again. This is why they didn't go through. The issue is that the staff who were speaking to Mr W failed to recognise this and therefore gave him incorrect information about what had happened. This caused a lot of unnecessary back and forth for Mr W. It is a shame that when the complaint was raised, and another person was looking at the matter, they also did not realise that this had happened and continued providing incorrect information to Mr W.

As Mr W has asked, I will answer his question about the relevant banking regulations. Section 82(5) of The Payment Service Regulations 2017 states:

“Where all the conditions set out in the payer’s framework contract with the account servicing payment service provider have been satisfied, the account servicing payment service provider may not refuse to execute an authorised payment order irrespective of whether the payment order is initiated by the payer, through a payment initiation service provider, or by or through a payee, unless such execution is otherwise unlawful.”

This essentially states that where the terms and conditions of the account are met, a payment service provider cannot refuse to execute an authorised payment unless it is not lawful to do so. Having looked at the context in which First Direct mentioned the banking regulations to Mr W, this seems to be the legislation it was referring to.

In this particular complaint, the issue is not however that First Direct refused the payments, but rather that they were re-directed to the fraud suspense account for further review and a dispute to be raised due to the previous concerns which had been flagged about the payments. It was clearly an error to do this. However, it doesn’t appear to me that this was purposefully done. It genuinely appears to me that the staff did not recognise this had happened and therefore tried to give him the best information it could about what happened, but that turned out to be incorrect. I agree that had First Direct meaningfully engaged with the information Mr W was providing from the hotel then it might have recognised the issue was on its side sooner, and its complaint handling was sub-par on this occasion. Mr W should be compensated for the errors made here and I will address this further below.

One transaction of £28.99

Mr W states he tried to make the payment above and it was not processed. First Direct has shown us its records and based on the information it has retained, I can see that on 3 October 2024 a payment of £28.99 was declined, followed by a successful transaction for the same amount.

First Direct has explained that the system that records the information which contains the reasons as to why a payment has been declined is kept for 30 days. As this time has passed, it is therefore not able to see exactly why the payment was initially declined, just that it did happen.

I have considered section 82(1) of The Payment Service Regulations 2017. This deals with the refusal of payments and says:

“Subject to paragraph (4) where a payment service provider refuses to execute a payment order or to initiate a payment transaction, it must notify the payment service user of –

(a) the refusal;

(b) if possible, the reasons for such refusal; and

(c) where it is possible to provide reasons for the refusal and those reasons relate to factual matters, the procedure for rectifying any factual errors that led to the refusal.

(2) Any notification under paragraph (1) must be given or made available in an agreed manner and at the earliest opportunity...”

The regulation is clear in that the bank should contact its customer at the earliest opportunity to provide notification of a refusal to make a payment. First Direct did not do this, however I cannot see the impact of this on Mr W because as far as I can see on his statements, the payment did go through later on.

Mr W has raised concerns about the lack of information kept by First Direct. It is not for this service to comment on how bank's conduct their business or on their data retention policies. I might have considered the impact on Mr W due to the lack of information First Direct has given him, if the payment had not gone through at all and Mr W had suffered a loss. But I cannot see that happened here, so I have not considered this matter further. Although I do acknowledge this has caused Mr W further frustration.

Putting things right

First Direct has offered £300 compensation for the errors made. Mr W has asked for more. As far as I can see, the two transactions of £450.47 have not been debited from Mr W's account due to the fraud disputes. As he has not suffered a financial loss concerning those amounts, and I cannot see any further debits or credits to the account in relation to these payments are pending, I do not find that these amounts should be returned to him. For the transaction of £22.98, the payment did go through eventually and it was an authorised payment made by Mr W so I cannot see that First Direct can and should be held liable for this amount either.

The errors made amount to poor handling of the account and misinformation given to Mr W. For this, the appropriate remedy is compensation for the trouble and upset caused to Mr W. Having considered the impact and stress this matter has caused to Mr W at length, I find the amount of £300 as proposed by First Direct to be fair.

My final decision

My final decision is that I uphold the complaint and direct HSBC UK Bank Plc trading as first direct to pay Mr W £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 30 September 2025.

Vanisha Patel
Ombudsman