

The complaint

Miss R complains about the way she was treated by HSBC UK Bank Plc trading as first direct when:

- it applied restrictions to the way she was able to use her debit card.
- It declined to allow her to use its mobile banking app on a phone that didn't belong to Miss R.
- It blocked an overseas payment she wanted to make.

What happened

first direct became aware that Miss R regularly allowed other people to use her debit card. This prompted first direct to apply restrictions on the way she would in future be able to use her debit card.

When first direct understood that Miss R wanted to install its mobile banking app on someone else's phone, it declined to agree to this.

When Miss R wanted to send a three-figure amount to a person she'd met online, she objected to first direct questioning her entitlement to spend her money as she wished. She was unhappy that first direct didn't accept her assurances regarding fraud concerns and declined to send the payment and blocked her account.

When Miss R complained to first direct, it said it had a duty of care to safeguard her accounts and that it had acted to protect her interests. This prompted Miss R to bring her complaint to us. Our investigator looked into all the issues she'd complained about but didn't think that first direct had done anything wrong. The investigator thought that first direct had acted appropriately, in accordance with her account terms and conditions and in line with its responsibilities to prevent fraud and scams.

Miss R disagreed with the investigator's view. She mainly said that first direct had acted unlawfully and she'd like us to identify the legal authorities that allow first direct to act as it did. Miss R asked for an ombudsman to review her complaint, so it 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.

This includes listening to the call recordings provided. And having done so, I've decided not to uphold Miss R's complaint. I'll explain why.

My role is to consider the evidence presented by both parties and reach what I think is an independent, fair and reasonable decision based on the facts of the case. I must be impartial. In order to uphold Miss R's complaint and award the redress she is seeking I would have to find that first direct made an error or acted in a way that wasn't fair and reasonable and this led to Miss R suffering financial loss or some other detriment. So I've looked at what happened with this in mind. I will consider the circumstances as a whole. I've highlighted the main things that I think are relevant when deciding this complaint – our rules allow me to do this. If I haven't covered every single point, it doesn't mean I haven't considered the evidence and what Miss R has said. It just means I haven't needed to refer to everything in the same amount of detail as Miss R to reach a decision. My focus is on the key issue I need to decide – whether first direct has treated Miss R fairly and reasonably overall.

The crux of Miss R's complaint, as I understand it, is that she feels the investigator has overlooked that banks have a primary duty to obey customers' instructions and she told us '*...my overriding concern is that it appears First Direct failed in their duty of care to me as a disabled customer...*' In support of her concerns she mentioned legal authorities including case law and, amongst other things, the Equality Act 2010, the Mental Capacity Act 2005 and Unfair Terms in Consumer Contracts Regulations 1999.

This service is unable to make findings on whether something constitutes discrimination as per the Equality Act and we can't rule on any disputed legal issues in the same way a court or tribunal would. This is because we're an informal alternative to the courts and only a court of law can make a legal finding based on the definitions set out within legislation or case law precedent and only a judge can give a formal decision on whether or not the law has been broken. However, I can consider whether a business has acted in a fair and reasonable manner and I'll be deciding Miss R's complaint based on what I think is fair and reasonable overall. In order to do that, I will take a number of things, including the Equality Act 2010 etc into consideration along with relevant laws and regulators' rules, guidance and standards.

Miss R was entitled to expect that first direct would act towards her in a fair and reasonable way overall. So I've thought carefully about this and looked at each of her main complaint issues in turn.

The restrictions applied to Miss R's debit card

The terms and conditions of Miss R's account with first direct, which Miss R would've agreed to in order to be able to use her account, included the following specific information:

'Things you shouldn't do.

- Don't allow anyone to use your payment device.
- Don't tell anyone (other than a Third Party Provider) your security details.
- Don't choose security details that can be easily guessed by anyone else.
- Don't write down your security details in a way that other people would easily understand.
- Don't log in, or stay logged in, to a device that's not in your full control or possession.'

This meant she shouldn't ever have given her debit card to anyone else to use – even if they were using her card with her express permission and authority. When first direct found out this was something she often did, and that she intended to continue doing this, restrictions were placed on her debit Card in December 2023. Although this prevented cash withdrawals using the card, this wasn't something Miss R had been doing herself. And first direct told us it had a cash delivery service, which it used for Miss R, so she was able to have cash delivered to her at home through the post.

Miss R could still use the card for online purchases, but not in shops. I think that was reasonable, given that Miss R told first direct that she couldn't get to the shops herself.

Miss R had also told first direct that she wasn't able to set up online banking so it was reasonable that this remained suspended as it wasn't something she used. Miss R was able to make transfers by phoning first direct when its customer care team ensured they were secure. I understand these card restrictions were in place until Miss R closed her account in May 2024. I am satisfied that these were reasonable restrictions in these particular circumstances and necessary measures to ensure first direct had taken adequate steps to protect the money in Miss R's account.

Only being allowed to use first direct's mobile banking app on Miss R's own phone

I've listened carefully to the call recordings provided and I can understand why first direct was concerned when Miss R wanted to install its mobile banking app on someone else's smartphone and it didn't agree to this. I've taken into account that this was a person Miss R trusted completely. But, in the same way that giving someone else her debit card was not allowed because it put her money at risk, installing first direct's banking app on someone else's phone would also have been a serious security breach - which first direct couldn't reasonably agree to given that keeping Miss R's money safe was one of first direct's priorities. Doing this would mean that she was allowing someone else access to all her banking and it wasn't permitted under first direct's terms & conditions that applied when Miss R had her account. These say: *'...you must be careful to keep your security details private and not let anyone get access to any devices you use to make payments.'*

So this isn't a reason for me to uphold this part of Miss R's complaint.

When first direct blocked an overseas payment Miss R wanted to make.

Miss R feels strongly that first direct had no good reason or any authority to refuse to process her payment request when she wanted to make an international transfer to a person she'd met online. She says that her instructions, and the fact she told first direct that she accepted full responsibility for the transaction, should've been enough to override all other considerations.

But I can't agree with Miss R on this point. Even though she wanted to send money from her own account (and she had funds to do so), first direct couldn't simply rely on Miss R authorising the payment. I'll explain why I say this.

Banks have an obligation to take steps to keep customers' accounts and money safe. Sometimes this can mean the bank identifies and blocks legitimate payments that a customer wants to make. Understandably, this can cause distress and inconvenience to a customer – but it doesn't necessarily mean the bank has acted incorrectly or unfairly.

Here, it wasn't a question of the bank doubting her mental capacity – there's nothing to suggest Miss R didn't have mental capacity to authorise the payment and first direct didn't suggest this. But first direct has legal requirements it must observe and regulatory obligations imposed by the Financial Conduct Authority ('FCA'). first direct has an obligation to protect its account holders' money, including where it reasonably believes that an account holder may be falling victim to a scam. And in this situation, it must decline to complete an instructed payment until it can be satisfied that its customer isn't the victim of a scam. This means first direct was required to have processes in place to help ensure it took reasonable steps to keep Miss R's money safe. first direct's terms and conditions, which Miss R would've signed up to in order to be able to use the account, allow it to withhold paying money from her account in these circumstances. So I can't fairly say that first direct made any error here when the payment Miss R wanted to make prompted security checks.

first direct still needed to act in a fair and reasonable way towards Miss R and I completely understand Miss R's frustration at what happened. But I can also understand why, from first direct's point of view, it had grounds for valid concerns about whether it could safely approve the payment Miss R wanted it to make. Miss R said she'd never met the payee in person – they had only ever communicated online. And, from what she told first direct, it was evident that the relationship, built up over a number of years, had all the hallmarks of a well-known type of scam which first direct explained to Miss R. It told her it had seen an increase in this type of online fraud – and it didn't want Miss R to be out of pocket due to being tricked this way.

I appreciate that Miss R found first direct's questions intrusive and irrelevant as she'd said she accepted full personal responsibility for making the payment. But how businesses choose to operate and their internal processes come under the oversight of the regulator - the FCA . Although Miss R has objected to how first direct treated her, it's not for this service to tell first direct how it should act when it has concerns about potential fraud or scams. It's up to first direct to decide how it meets its regulatory obligations. Despite attempting to find out from Miss R the information it needed to know, first direct wasn't able to be satisfied that Miss R's money wasn't at risk – and I've explained above why it had grounds for valid concerns in my opinion. Bearing all this in mind, I think first direct acted fairly and reasonably when it applied bank policy and declined to allow the payment Miss R wanted to make.

I'm sorry that these complaint issues have caused Miss R so much stress and been upsetting for her. But for the reasons I have set out, I haven't seen enough here to uphold her complaint.

I note that the possibility of setting up a Power of Attorney has been mentioned. Although Miss R took exception to this suggestion, I just wanted to make clear here that only someone with full mental capacity is able to set up a Power of Attorney and there's no suggestion that it's only useful for people who don't have capacity under the Mental Health Act 1983. It's something that is often recommended as a sensible and useful way to help someone who might find it difficult to get out and about to manage their financial affairs. It would mean, for example, that a trusted person could have their own debit card to operate Miss R's account as a 'representative' and be able to make cash withdrawals for her and do her shopping and pay bills for instance.

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

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 Miss R to accept or reject my decision before 17 September 2025.

Susan Webb
Ombudsman