

complaint

Mr P, represented by Mr W, makes a number of complaints about HSBC UK Bank Plc, trading as first direct, handling of his attempts to register a Lasting Power of Attorney (LPA) on his account.

background

Mr P tried to register the LPA on his first direct account but says it refused to accept it. He says he was asked for a form to be completed about the Attorney and that first direct also wished to carry out a credit search on the Attorney. Mr P says he took the required forms into a branch as directed by first direct but was later told the forms needed authenticating. He says he spoke to first direct about this and was told the requirements were made in line with Money Laundering and Financial Regulation rules but it couldn't say which parts of those rules relate to this issue.

Mr P says the information required about the Attorney is not relevant and there is no reason to carry out a credit check on him. He says first direct's actions have affected his health and it had no right to ask for the information it did. Mr P says he wants the LPA registered and compensation for what's happened as well as evidence of first direct's right to request this information.

first direct says it followed its rules on "knowing a customer" and says it requires the Attorney to complete an identification form and provide identity evidence. It says Mr P and Mr W made clear that they would not complete the form. first direct says it gave Mr P the LPA documents that need completing but says they were handed in without certification and provided Mr P with a list of persons that could certify them. It later said it would complete a soft search on the Attorney rather than a full credit search.

Mr P brought his complaint to us but our investigator thought first direct had dealt fairly with the complaint. The investigator thought first direct had applied its judgement in line with its own rules about registering a LPA and that it wasn't our role to tell a business what those rules should be. The investigator thought first direct had told Mr P what documents were required and that they should be certified. And that the Attorney had refused to complete part of the one that related to him. The investigator didn't think there was any record of Mr P being told to take the documents into a branch and also accepted that first direct hadn't been able to point to a specific part of the Money Laundering Act relating to these issues. The investigator thought first direct were entitled to decide if it wished to continue a business relationship with a customer as it had now closed Mr P's account.

Mr P doesn't accept that view and makes a number of points in response to the investigators view. In summary he says the investigator's view is bias and has ignored the impact this has had on him and that the Money Laundering Act doesn't apply to LPA's. He also says the calls between him and first direct should be listened to and that it can't ignore the law. Mr P says not everyone has access to persons that can certify a LPA and that first direct's requirements for information about the Attorney are not relevant. He says other businesses have correctly registered the LPA.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so I've come to a similar

overall view as the investigator. I realise Mr P will be disappointed by my decision and I appreciate how strongly he feels about what's happened.

I've no doubt this whole process has been a difficult experience for Mr P and I accept that he has health problems. I also accept that he has been left frustrated by the approach of first direct compared to the approach taken by other businesses since his first direct account was closed. I can see that the LPA has been registered on a new account and I accept that Mr P will no doubt question why different businesses have different procedures for dealing with LPA's.

But I make clear to Mr P that we are not the regulator of banks and building societies and so I think it's up to a business to decide what its approach to the registration of LPA's is and what its interpretation of the various rules and requirements it's subject to is. I'm satisfied that such decisions are for a business to decide upon when exercising its commercial judgement and in making sure it complies with all regulatory requirements. I can see that first direct required the documents to be certified and that the Attorney completes a separate form. I'm satisfied that the Attorney refused to complete large parts of that form and that the documents were not certified. So in those circumstances I don't think first direct made a mistake or acted unfairly by returning the documents and by refusing to register the LPA as Mr P had not complied with its requirements.

I appreciate Mr P says that there was a cost involved in having the documents certified and that there was no need to do so. But whilst I'm sorry to disagree with Mr P I'm satisfied that first direct has followed its procedure and as I have explained it's not our role to decide if that procedure is fair or unfair.

I accept that first direct could have been more specific about its requirements when Mr P challenged it about why it was requesting the information. But I don't think that lack of specific information had a significant impact here or that it would have made any difference to the outcome, even if first direct had explained in more detail why it wanted for example the information about the Attorney.

I appreciate that Mr P will remain unhappy with what has happened and I accept he has raised a number of further questions and points about what took place. I accept that there will be unanswered questions, as Mr P believes that first direct has ignored the law. But as I have explained it is not our role to adjudicate on such matters as I think it would be for a court to make such a determination. I also accept that Mr P believes that we should listen to the calls between the parties but I don't think that is necessary or that they are relevant. I say that as the main issue here is the request for documents to be certified and information about the Attorney. And I don't need to listen to the calls to make a decision on those issues.

I can see that Mr P has opened a new account with a different business after first direct gave notice that it intended to close his account. I am not asked to consider the fairness of that decision but I think it's clear that the relationship between the parties had broken down.

Overall I don't think first direct has acted unfairly or made a mistake and so I can't fairly order it to pay the compensation Mr P would like or to do anything further in the circumstances of this complaint. I appreciate Mr P will remain unhappy with my decision but I'm satisfied that brings to an end what we in trying to resolve this dispute informally can do.

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 P to accept or reject my decision before 10 October 2019.

David Singh
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