

## **The complaint**

Mr O complains that a transfer of funds from his account at HSBC UK Bank Plc (trading under its First Direct brand) failed to reach its destination and has not been returned to him. He says too that First Direct should have known there was a risk of the payment being blocked.

## **What happened**

On 28 March 2022 Mr O instructed First Direct to make a payment of £350 to a friend in Russia. The friend's bank account was also in Russia. First Direct made the payment and deducted a £5 fee from Mr O's account.

Mr O expected the transfer to take 5-7 days, so when it had not been received by 7 April he contacted the bank to see what had happened. On 28 April First Direct attempted to recall the money, but was unsuccessful. Its notes indicate that it followed up on that request on 4 May, 19 May and 24 May 2022, but with no success.

The payment had been routed through the Russian bank's agent bank in the US. The US bank told First Direct that the payment was under review and then, at the end of July 2022, that it had been blocked because of sanctions against certain Russian entities, including the recipient bank; Mr O would need to make an application to the Treasury to have the money returned. I understand that Mr O has made an application, but I am not aware that the money has been returned.

Mr O complained to this service. Our investigator did not however uphold his complaint, so he asked that an ombudsman review it.

## **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.

The payment to the Russian bank was not stopped by First Direct. It appears that it was stopped by the US intermediary bank because of sanctions placed on the Russian bank by the Office of Foreign Assets Control ("OFAC") – part of the US Treasury. That action was beyond the control of First Direct. It followed Mr O's instruction to make the transfer.

Mr O has said however that First Direct should have known that the Russian bank was subject to sanctions and there was therefore a real risk that the payment would be blocked.

I don't believe that, generally, a bank owes a duty to monitor sanctions issues so that it can advise its customers on them. Whether particular sanctions will affect a transaction will depend on a number of factors, including (but not necessarily limited to) the beneficiary, the receiving bank, any intermediary bank, the purpose of the transfer and the currency involved. I would not necessarily expect banks to analyse each transaction for these matters in order to advise customers. Having said that, I accept that there might be cases where the risk is so obvious that it would be fair to say a sending bank should have intervened.

In the spring of 2022 the extent of sanctions against Russian entities was changing rapidly. It appears that OFAC identified towards the end of February that the Russian bank might fall within the US sanctions regime. OFAC's website indicates that sanctions became effective on 26 March – that is, two days before the transfer – and that a press release announcing that was issued on 6 April 2022.

In the circumstances, I do not believe it would be fair to say that First Direct should have intervened here. It follows that I don't believe it acted unfairly.

I have a good deal of sympathy for Mr O, and for the friend for whom the payment was intended. However, I cannot fairly conclude that the reason the money has not been received is the fault of First Direct.

### **My final decision**

For these reasons, my final decision is that I do not uphold Mr O's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 16 November 2023.

Mike Ingram  
**Ombudsman**