

The complaint

X is complaining that J.P. Morgan Europe Limited trading as Chase (“Chase”) didn’t comply with the reasonable adjustments X had requested due to their disability.

What happened

X has a medical condition and in November 2021 they let Chase know that they required reasonable adjustments under the Equality Act 2010. X said they were horribly affected by phone calls and by receiving letters in the post. Chase noted that they should not attempt to call X or post letters to them.

X has previously raised a complaint with our service about Chase’s contact with them. They said they didn’t want to be contacted through the online chat function through Chase’s app – even though X had contacted Chase through this function. The investigator at that time thought it was reasonable for Chase to contact X through the online chat function as they needed a way of getting in contact with X when X contacted them.

In June 2022 Chase attempted to call X in response to a payment dispute they’d raised via the online chat function, after X had asked for an email, but not provided an email address. And on 11 July 2022 and 21 September 2022 Chase sent X final response letters by post.

X raised a complaint with Chase. Chase replied to X’s complaint, apologising for their adviser attempting to call X, and paid X £40 in compensation.

X brought their complaint to us. As well as complaining about Chase sending letters and attempting a call, X’s complaint was, in summary:

- They’d asked only to be contacted during working hours (between 9.00am and 5.00pm) but Chase was contacting them outside of these hours;
- They only want to be contacted via email; and
- Chase had mentioned phone calls in correspondence with them.

Our investigator looked into X’s complaint. She didn’t think £40 was enough to recognise the impact on X of Chase not adhering to the reasonable adjustments X had asked for. She asked Chase to pay £300 in compensation.

She also said that Chase’s templated and automatic responses may mention phone calls as a way of getting in touch – and she didn’t think this was unreasonable as X was aware they had another way of contacting Chase. She thought Chase weren’t unreasonable to decide they couldn’t correspond with X only via email, as it wasn’t a secure method – so she thought it fair that they could continue to correspond via the online chat when they needed to, and when X contacted them this way. She thought Chase should only contact X during the working hours they’d requested.

X replied to say they didn’t think the investigator had addressed all their complaint points –

although they didn't explain what points they thought the investigator hadn't addressed.

Chase replied to say, in summary, that they accepted they hadn't adhered to X's reasonable adjustments when they'd sent them two letters by post but couldn't explain how that had happened. They also explained that the adviser had attempted to call X in June because X had raised disputed transactions through the online chat and they needed more information – and although X had asked for an email and ended the chat, they hadn't given an email address in the chat, so a call was attempted.

They thought £300 in compensation was too much and said they'd already paid X £40 – but they'd be prepared to pay £150.

Chase also said that if X contacted them through the app outside of the agreed contact hours, they didn't think it would be unreasonable for them to reply straight away, especially for an urgent matter such as a payment dispute. So, they couldn't guarantee they would only contact X between 9.00am and 5.00pm if X contacted them outside of these hours. And as a 24/7 bank they'd sometimes need to contact customers outside of working hours – for example, with updates on availability issues or notifications of variations of terms.

The investigator considered Chase's points and issued another view to clarify the position. She said, in summary, that if X contacted Chase outside of working hours it wouldn't be unreasonable for them to respond at the time. She thought any other communication should be made within working hours. She still thought overall compensation of £300 was reasonable in all the circumstances. And as Chase had already paid X £40, she was recommending they pay X a further £260.

Neither Chase or X accepted the investigator's view, so the complaint has now been passed to me for review and a decision.

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.

Phone calls and letters

It doesn't appear to be in dispute that Chase attempted to contact X by phone and also sent them two letters in the post, contrary to the reasonable adjustments agreed.

I do understand the adviser was in a difficult position when they attempted to call X in June 2022. They needed more information from X, and X had ended the chat conversation by telling them to send an email, but hadn't provided an email address. But Chase do have a reasonable adjustment for X recorded which says not to attempt calls. And I don't think it was reasonable for the adviser to bypass that, even in the circumstances Chase have explained.

X has explained the impact of receiving post and phone calls, as having a "horrible effect." And from what we're aware of about X's medical condition and its effect on them, I'm satisfied that receiving post and calls does genuinely cause X significant distress.

I've thought carefully about what Chase have said about the level of compensation. But I'm also taking into account the significant impact on X of them receiving letters and calls, and the fact that Chase have been aware of the reasonable adjustments X required for some time. I think the distress this issue caused to X could have been avoided relatively easily here. So, I do think the overall compensation amount of £300 (including the £40 Chase have

already paid to X for the attempted phone call) suggested by the investigator is fair and reasonable.

Ongoing reasonable adjustments

Businesses have a duty under the Equality Act 2010 to make reasonable adjustments to allow users to access their services. This can include tailoring their services to a customer's needs. But this doesn't mean they're required to comply with every adjustment a customer asks for, if it's not practical to make that adjustment.

I've taken the Equality Act 2010 into account here – given that it's relevant law – but I've ultimately decided this complaint based on what's fair and reasonable. If X wants a decision that Chase have breached the Equality Act 2010, then they'd need to go to Court.

Chase, in providing banking services to X, will sometimes need to communicate with X securely – and so I agree that it wouldn't be practical or reasonable for them to correspond with X solely by email, which isn't always secure. The online chat functions offers this secure method of communication, and after their previous complaint X is aware of our findings that it's reasonable for Chase to communicate with X via the online chat function.

I want to stress that if X doesn't want to continue with an online chat at any point, this doesn't mean that Chase must correspond by email instead. If more information is needed that X doesn't provide through the chat when asked, this may mean that X's query isn't progressed. And I would add that I don't think it's unreasonable for Chase to reply to X straight away when X contacts them via the online chat - even if that's outside of X's requested communication times.

On occasion, when they contact Chase, X may receive automatic acknowledgements or responses which include an option for getting in touch by phone. X has sent us an example of such a reply that they received when emailing Chase's general support email address. X has replied to say the options aren't suitable for their disabilities.

But I don't think that, practically, Chase can guarantee that X will never receive these sorts of responses. And as the investigator's mentioned, X is already aware that in their own circumstances they won't be required to call Chase due to the reasonable adjustments agreed. So, I'm not going to ask Chase to pay compensation for any distress X experienced by receiving these sorts of automatic acknowledgements or responses.

For other correspondence and communication, including email replies that aren't immediately time sensitive, I think Chase should endeavour to contact X within the agreed hours. I accept that unpredicted issues can occur and there are some issues, such as systems being unavailable, which may need to be communicated to all customers urgently as and when they arise.

The other example Chase have referred to is a notice of variation of terms which they say they usually send to affected customers at midnight, when the new terms come into effect. But going forward I don't think it's asking too much for Chase to arrange for planned communications such as this to be sent to X at a different time to other customers, in line with the reasonable adjustments X has requested.

My final decision

My final decision is that I'm upholding X's complaint, for the reasons I've explained.

J.P. Morgan Europe Limited trading as Chase should pay X an additional £260. They should

also put arrangements in place to send email replies and planned, general, communications to X during the working hours X has requested.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 7 September 2023.

Helen Sutcliffe
Ombudsman