

The complaint

Mr B complains The Co-Operative Bank Plc unfairly stopped him making card payments while travelling abroad. He says this caused him considerable losses, including being unable to obtain a divorce from his partner or complete the sale of a property he owned.

What happened

Mr B held accounts with the Co-Op Bank. He travelled to Cuba, which is subject to sanctions by the United States of America – although there are no sanctions currently in place by the government of the United Kingdom. Mr B says he used his Co-Op Bank cards in Cuba in the past without experiencing a problem.

Prior to travelling Mr B informed the Co-Op Bank of his plans to help prevent payment issues while abroad. However, while abroad he tried to make several payments which were declined. He contacted the bank to ask what was happening, and later raised a complaint.

The Co-Op Bank explained its card systems provider blocked the relevant merchant acquiring bank because it had been added to the list of persons subject to sanctions by The Office of Foreign Assets Control (OFAC), which administers and enforces US sanctions. It said the merchants Mr B was trying to make payments to use this acquirer. It has confirmed the acquirer in question is no longer blocked.

Our investigator upheld Mr B's complaint. They concluded:

- Although Mr B let the Co-Op Bank know about his travel, which the Co-Op Bank noted, this didn't mean all checks would be prevented on payments he requested while he was away.
- They could find no clear evidence to show the acquirer in question was on an OFAC sanctions list. Instead, the evidence indicated the block on the acquirer was the decision of the card system provider. As the Co-Op Bank engaged the card system provider to enable it to provide services to its customers, it was to some extent responsible as principal for the acts of its agent.
- The Co-Op Bank agreed to pay £150 as a gesture of goodwill for the inconvenience Mr B experienced, but it refuted that it was responsible for the actions of the card services provider.
- Mr B said he experienced substantial losses, but he had not provided sufficient evidence to demonstrate those losses.
- The card system provider failed to tell the Co-Op Bank about the acquirer being added to its blocked list until the Co-Op Bank made later enquiries following other customers experiencing similar problems.

Mr B rejected the outcome our investigator reached and asked for a final decision by an ombudsman. His complaint has been given to me to decide. He said the Co-Op ought to

have provided notice to him of the change to the blocked list prior to his travel, and he would have opened an account with another bank who allowed payments.

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've decided to uphold Mr B's complaint, but I'm not awarding more redress than the £150 our investigator recommended. I'll explain why.

I've seen no evidence to show the acquirer in question was a sanctioned entity by OFAC – I find it likely there would be some online public record if it was, given sanctioned entities are published. Neither have I seen evidence which sufficiently demonstrates the decision of the card service provider to add the acquirer temporarily to its blocked list was not based on incorrect conclusions or a misunderstanding of its sanction's obligations.

I appreciate the Co-Op Bank attempted to get more comprehensive details from its card services provider about the adding of the acquirer to a blocked list, but this has not been forthcoming. However, the lack of an adequate response does not absolve the Co-Op Bank of responsibility in terms of the refused payments.

Mr B feels the Co-Op Bank hasn't been entirely transparent explaining why the payments were blocked. I understand this is how he feels, but I've seen no evidence to suggest the Co-Op Bank hasn't been honest in their explanation about what happened or when saying it wasn't informed by its card services provider about changes to the list of blocked acquirers.

Mr B says the Co-Op Bank is saddling up to the policy of the US, referencing the offboarding of accounts for campaign groups in support of Cuba. But it's my role to consider the complaint before me, and not the closure of accounts for other persons and associations. I haven't seen evidence to show the blocking of the payments was caused by anything other than the card services provider adding the relevant acquirer to a blocked list.

The Co-Op Bank said it's not responsible for the decisions the card services provider makes, and it points out that other financial providers contract with the same provider, so they likely experienced the same problem. But generally speaking, engaging a third party to carry out a service that is offered to customers creates an agency relationship. So, errors by the agent fall on the principal in terms of responsibility.

I've listed carefully to what the Co-Op Bank has said and reviewed the information it provided. But I've not seen reliable evidence to demonstrate an agency relationship wasn't established by it entering into a commercial agreement with the card services provider, such that the Co-Op Bank bears no responsibility for errors made by the provider that impact on the Co-Op Bank's customers.

I haven't seen sufficient information from the Co-Op Bank to show the blocking of the acquirer was the result of an appropriate action taken by its card system provider. So, I can't conclude Mr B was treated fairly when his card payment requests were blocked, and I'm satisfied that by not being able to use his card with various merchants, he was inconvenienced and caused some distress.

Putting things right

Subject to Mr B accepting this decision by the deadline, I require The Co-Operative Bank Plc to pay him £150 for the distress and inconvenience he experienced by not being able to use his card as he hoped.

I'm not awarding a larger sum because I find he hasn't demonstrated he experienced the substantive losses he says he did. He says there isn't surrounding evidence he can provide, but I cannot reasonably award the losses he claims without robust evidence to show they happened, and that they were primarily caused by the Co-Op Bank's failure.

I also haven't seen that Mr B couldn't use his card entirely – the Co-Op said only the particular acquirer used by merchants he tried to make payments to was blocked. But this didn't mean all acquirers used by every service provider or merchant in Cuba were blocked.

My final decision

My decision is I uphold Mr B's complaint. The Co-Operative Bank Plc need to pay Mr B redress according to my instructions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 March 2024.

Liam King
Ombudsman