

## **The complaint**

A company which I'll refer to as 'H' complains that Metro Bank Plc behaved unreasonably when it didn't honour a cheque they'd issued.

The complaint is brought on H's behalf by one of their directors, Mrs N. Mrs N is represented by Mr N, but for ease I'll refer to Mrs N throughout the decision.

## **What happened**

H held a business current account and savings account with Metro.

Mrs N told us:

- She wrote a cheque to one of H's suppliers for around £1,000 which was due to debit the company's account whilst she was abroad. She believed she'd transferred funds from H's savings account on 10 April 2023 to cover this payment, at the same time she'd made two faster payments from H's account.
- She'd contacted H's Relationship Manager ('RM') and another department in the bank to make it aware that she would be abroad from mid-April 2023 to early May 2023. She provided her email address and Mr N's phone number as hers wouldn't work abroad.
- On 2 May 2023, H's supplier presented the cheque. However, there were insufficient funds in their account, so Metro didn't honor the cheque and it was returned causing reputational damage to the company and distress to her personally. H had another ongoing complaint with the bank, and had it refunded the interest that the company was due in a timely manner, it's likely there would've been sufficient funds in the account.
- Metro hadn't given her a reasonable opportunity to transfer funds or made it clear that the cheque would be returned due to insufficient funds. The bank had sent a vague text message about the payment, but this had been received after the cheque had already been returned.
- H held a large credit balance in their savings account with Metro and had held an account with the bank for a lengthy period and hadn't had any issues. The bank could've made the payment and allowed a temporary overdraft or used the right of set-off, but it chose not to do so and had therefore behaved unreasonably.
- She'd never been provided with H's account terms and conditions and therefore wasn't aware that the bank's process was fully automated. This process doesn't allow Metro to use its discretionary powers appropriately or fairly.

Metro told us:

- Its decision to return H's cheque was taken in line with the account terms and

conditions as there were insufficient funds in the company's account. It didn't have to make a second attempt to make the cheque payment as this was only for regular payments. However, it contacted Mrs N at 04:00 requesting that she credit funds by 14:00 to enable the payment to be made.

- It sent Mrs N a text message to let her know that there were insufficient funds in H's account to pay the cheque, and it wasn't responsible for this being received after the cheque had been returned due to the time difference because Mrs N was abroad.
- Its process is for business customers to be contacted by the RM when items are unpaid, and these have been reviewed. However, Mrs N contacted it before the RM had reviewed the system and could use the amended contact details she'd provided.
- H had opened their accounts in a branch and when opening their account, they had accepted the declaration that the account would be subject to the terms and conditions declared in the relationship with business customers document, and important information summary.
- It had met its obligations with regards to the notification that it had dishonoured H's cheque as this was visible on H's month bank statement and it clearly communicated that the cheque was unpaid. This was also visible immediately via online banking.

Our investigator didn't recommend the complaint be upheld as he didn't think Metro had done anything wrong. He said that the account terms and conditions said it was H's responsibility to ensure there were sufficient funds in their account for any payments to be made. He also thought it was likely that H had agreed to the account terms when they'd opened the account, and if they didn't receive these, that they could have requested them or accessed them online. He also didn't think there were any terms for Metro to offset H's funds in their account or provide a temporary overdraft, so the bank wasn't obligated to do this.

The investigator didn't think the bank needed to tell Mrs N that there were insufficient funds in H's account, or for it to contact her on the additional contact details she'd provided whilst abroad. He also said that it was Metro's decision how it met its legal and regulatory obligations for requirements such as the bills of exchange act. And because this was H's complaint, they were the eligible complainant so he couldn't consider any distress caused to Mrs N.

Mrs N didn't agree and asked for an ombudsman to review H's complaint. She said the investigator hadn't taken into account the case law she'd mentioned, the automatic right of set off or that the bank hadn't paid H the compensation from their previous complaint. Mrs N also said she'd done everything possible to tell the bank she was abroad, so she didn't think the investigator's opinion was fair.

### **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.

Having done so, I'm sorry to disappoint Mrs N, but there's not much more that I can add to what our investigator has already said.

Firstly, I want to thank Mrs N for sharing the information that she has about the impact on her as a result of this complaint. I acknowledge the difficult circumstances that Mrs N has told us she has faced as result of H's payment not being made. However, as our investigator has explained, H is the eligible complainant here, not Mrs N. As H is a limited company, they

can't be caused distress which means I could only look at any inconvenience caused to them. Therefore, I can't consider any impact to Mrs N, although I don't disbelieve what she has told us.

Mrs N has given numerous reasons why she believes that Metro should have paid H's cheque. She's also provided a large amount of evidence and her testimony about why she feels the bank has behaved unfairly. I haven't commented on all Mrs N's points, the evidence she'd provided, or the rules and legislation she's referred to. I don't mean this as a discourtesy, but the informal nature of our service allows me to do this. My role is to decide on what is, in my opinion the crux of the complaint – which in this case is that Mrs N feels Metro should have honoured H's cheque payment. But I'm not persuaded that Metro has done anything wrong here.

The terms of H's account with Metro say that the company is responsible for making sure they have sufficient funds in their account to make withdrawals or payments. And that if there aren't available funds, the bank may not allow the payment. I recognise that H had more than enough funds in a separate account and that Mrs N says she thought she'd made a transfer which would cover the payment. But whilst I have some sympathy for H, the crux of the matter is that the company didn't have sufficient funds in their account to make the cheque payment. Therefore, Metro didn't have to allow the payment.

I understand that Mrs N says Metro had discretion to make the payment, that it could have applied a right of set off, or allowed H a temporary overdraft on their account. I haven't seen evidence within Metro's terms which say the bank *can* take these actions, but I acknowledge that it is possible for the bank to do so. However, the key point here is that Metro isn't be obligated to take these actions, these are discretionary options which the bank could choose to exercise, and chose not to. But this doesn't mean Metro treated H unfairly.

Mrs N says that Metro should have contacted her about the cheque payment either via email or by her husband's phone, rather than by her usual contact number as she made the bank aware she was going to be abroad for several weeks. But I don't agree. It's not disputed by either party that Mrs N told the bank that she was going abroad or that there were alternative contact details which could be used for her during that period. However, whilst Mrs N had provided these updated details to both the complaints department and the RM, she hadn't requested that the bank's system be updated to add these details. I've not persuaded that Mrs N's requests were explicit that her own usual contact number shouldn't be used, only that her husbands *could* be used, nor do I think the bank would have known to use Mr N's number or email in this situation.

Metro has said that it's cheque processing is automated and therefore the system wouldn't have known to contact Mrs N on her husband's mobile number as this wasn't the one registered on H's account. Nor would it have been able to email Mrs N as there was no human intervention within this process. Furthermore, whilst I recognise Mrs N says H's RM could've contacted her about the cheque, I don't think this is reasonable or in line with current industry practice. The bank has told us that they would only have been made aware after the payment had been returned unpaid. So, the RM wouldn't have known about the shortfall in the account balance or been able to intervene. I also acknowledge that Mrs N said she asked the RM herself to make an account transfer to cover the cheque, but she didn't receive a response. But I don't think that had an impact here as the time difference meant the cheque had already been returned unpaid by the time Mrs N had sent this request to the RM.

I acknowledge that Mrs N feels that Metro's automated process here is poor. She says that she wasn't given reasonable notice that the cheque wouldn't be paid, the text message she received was vague, and she wasn't notified in a timely manner that the cheque had been

dishonoured so the bank hadn't complied with the required legislation. However, I can see that Mrs N received a text message to her phone asking her to credit funds before 2pm to allow the payment to be made. I recognise Mrs N disputes this, however I think on the balance of probability that the text was sent before this deadline due to the automated nature of Metro's system.

Furthermore, I don't think it was necessary for the text to say what the payment related to. I think it's reasonable for the bank to believe that if it makes its customers aware that there are insufficient funds in their account, that they will review this and credit (if possible) the required amount to allow any payment(s) to be made. In terms of the notification about the unpaid cheque, Metro has told us that it is satisfied that providing monthly statements and immediate notification via online banking meets its obligations for promptly notifying its customers of any unpaid items. I can see that Mrs N doesn't agree with this. However, it's a commercial decision the bank is able to take on how it chooses to meet its legal and regulatory obligations. I would only interfere with Metro's interpretation of its obligations if I thought it had behaved unfairly or unreasonably as a result of its systems or process, but I don't think it has done so here.

I recognise that my decision will be disappointing for Mrs N as she feels Metro has behaved unfairly here, but this isn't something I'll be asking it to take any further action on. If Mrs N wishes to do so, she can raise her concerns about Metro's systems and processes with the regulator, the Financial Conduct Authority (FCA). However, I would like to make Mrs N aware that the FCA do not respond to individual complaints.

### **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 H to accept or reject my decision before 22 April 2024.

Jenny Lomax  
**Ombudsman**