DRN-5976531

The complaint

A company which I'll refer to as "W" complains that U.S. Bank Europe DAC trading as Elavon Merchant Services (Elavon) treated them unfairly by not telling it about a chargeback claim raised against it.

The complaint is brought on W's behalf by its director, Mr O.

What happened

Mr O told us:

- W received notification around 18 November 2024 that a chargeback for £3,000 was due to debit its account on 19 November 2024. So, he called Elavon on 18 November 2024 to ask what the chargeback was in relation to as W hadn't received any notification.

- Elavon said that it had sent notification of the chargeback to the email address it held for him. However, this was the incorrect email address, and he'd told Elavon this on numerous occasions.

- Elavon said that it would send the chargeback notification to his new address, and he now had until 18 December 2024 to respond with information to defend the chargeback. Elavon also said his email address would be updated within five working days.

- He responded to Elavon with information to defend the £3,000 chargeback on 20 November 2024, which Elavon confirmed they had received. He also asked Elavon in this response to consider this information for the pending chargebacks, as he'd also noticed that another chargeback amount for £4,500 was due to debit W's account on 21 November 2024 for the same customer.

- Due to an error by Elavon, he wasn't told that the £4,500 related to a separate chargeback reference and therefore he wasn't given the opportunity to provide information to dispute the chargeback. Elavon told him that the notification of this chargeback had also been sent to his old email address, even though it was aware of his new one.

- Elavon had behaved unreasonably as he'd made it aware that he wanted to dispute any chargebacks pending for W. He was confident that Elavon had caused W to lose the £4,500 unfairly as he'd successfully defended the £3,000 chargeback and it was the same situation for the £4,500 chargeback. So, he wanted Elavon to refund the £4,500 which had been debited from W's account as a chargeback and had caused the company a consequential loss as it had to replace these funds with a loan to pay suppliers.

Elavon told us:

- W received two chargebacks from the same customer. One for £3,000 on 14 November 2024 and one for £4,500 on 18 November 2024. Mr O spoke to its agent on 18 November 2024 regarding the £3,000 chargeback, however the chargeback for the £4,500 payment was only received after this call and therefore its agent hadn't been aware of the second chargeback when speaking to Mr O.

- The chargeback information for £4,500 had been sent to Mr O's email address on 18 November 2024. As no response was received from W to dispute the chargeback by the required date of 23 December 2024, it was unable to defend the case on W's behalf.

- It had notified W of both the £3,000 and £4,500 chargebacks in line with the terms of its agreement and acted within the card scheme rules so it hadn't done anything wrong.

Our investigator recommended the complaint be upheld. He thought that W hadn't been given a fair opportunity to defend the chargeback for £4,500. And given that W had been successful in defending the £3,000 it was likely the outcome would have been the same. The investigator didn't think Elavon had treated W fairly as it hadn't updated Mr O's email address until 19 November, despite being aware that he'd requested this be changed on 14 and 18 November 2024. He also thought that W's email of 20 November 2024, had been clear that the chargeback defence provided should be for both the £3,000 and £4,500 chargebacks. So, he thought Elavon should refund W the £4,500 it had lost as a result of the second chargeback.

Elavon didn't agree. It said that Mr O had replied to the actual message it had sent to W notifying it of the £4,500 chargeback, which proved this had been received. Elavon also said that Mr O's email of 18 November 2024, hadn't asked for the chargeback information to be resent, only for the email address to be updated. It also said that the dispute had been raised over defective/damaged goods, so W should be able to resolve the matter with its customer. As an agreement couldn't be reached, the case was passed to me to decide.

I issued a provisional decision on 18 November 2025. I said the following:

> 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 decided to uphold it, I'll explain why. My role here is to decide whether I think Elavon made a mistake in how it processed a chargeback request raised against W, as the merchant provider of goods or services. And having looked at all the evidence that's been provided, I haven't seen sufficient evidence to persuade me that Elavon has acted fairly here.
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> A chargeback is the process by which some disputes are resolved between card issuers and merchants under the relevant card scheme rules. Elavon don't operate the scheme or decide if a chargeback is successful – it can only decide whether or not to defend it. If the merchant bank chooses to defend against the chargeback, the case will go to arbitration before the card scheme – who will consider all the evidence. The costs of arbitration can be significant to the losing party in the dispute so it's generally accepted that this option will only be pursued if there is a reasonable chance of defending the chargeback.
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> In this case, Elavon says that it emailed Mr O on 14 November 2024 and 18 November 2024 about the respective £3,000 and £4,500 chargebacks made against W. It made Mr O aware that he needed to provide any information or evidence that could be used to defend W against the chargeback. Mr O hasn't disputed that he

received the email of 14 November 2024, and indeed I can see that he responded to Elavon with information that it was able to use to defend the £3,000 chargeback. However, he says that Elavon didn't action his request to change his email address which meant that he wasn't aware there was a separate chargeback case for the £4,500, so was unable to defend this.

I've seen the email request change from 14 November 2024 asking for Mr O's email address to be updated. I've also seen an email confirmation from Elavon to Mr O confirming that it had received a request to change his email address. So, I'm satisfied that Elavon was aware of that Mr O wanted to amend his email address. However, I'm not persuaded that Elavon behaved unreasonably in how it communicated the chargebacks to Mr O. I say that because Elavon's terms say that it's customer should allow up to ten working days for any changes to be made on their account, and Elavon updated Mr O's email address within that timescale.

Furthermore, when Mr O contacted Elavon to update his email address on 14 November 2024, he was told it would be five working days before the change would take place. I can see that the second chargeback email was sent to Mr O's original email address on 18 November 2024, before Elavon's timescale for any changes had expired. So, I can't say it was unfair for Elavon to send the chargeback notification to Mr O's original email address.

I may have expected Elavon to resend the chargeback notification to Mr O's new address once this was updated, as I think it's reasonable to believe that Mr O may not have received this originally due the changes. I also may have expected Elavon to check the notification was received if it didn't receive an acknowledgement from Mr O in these circumstances. However, Elavon has provided evidence showing that Mr O replied back to the specific chargeback email notifying him of the £4,500 dispute raised against W. So, I'm satisfied that Mr O had received and seen the £4,500 chargeback email and was aware that he needed to provide information to defend W's position – albeit the email was the original email address rather than the new one.

Additionally, I've seen that Mr O's emails on 14 November 2024 and 18 November 2024 had both been sent from his original email address. Elavon has also told us that it didn't receive a response to any emails to say that Mr O's original email address was no longer in use, which would have prompted it to contact him. So, whilst I think it would have been good practice for Elavon to have sent the chargeback notification to Mr O's new email address, as it was aware that he was trying to change this, I think it was reasonable for Elavon to believe that W had received the chargeback notification as Mr O had responded to the specific chargeback email. I don't think Mr O's ability to defend the chargeback was affected by the different email addresses being used.

However, Elavon said that it wasn't able to defend the second chargeback raised on 18 November 2024, as it only received a defence for the chargeback raised on 14 November. But I don't agree. I've seen Mr O's email of 20 November 2024, and I think he was clear that the defence he was providing was for both the £3,000 chargeback and the pending £4,500 chargeback. I think Mr O was clear that the circumstances were the same and that both chargebacks were unfair and that W had tried to resolve the dispute and even had to call in its own debt collectors to resolve the situation. Elavon acknowledged this email on 22 November 2024, so I think it was understandable that Mr O thought he had provided sufficient evidence to defend the chargebacks.

I acknowledge that Mr O's email only referred to the one chargeback reference. However, I do think it's reasonable that Mr O may not have realised there was a separate reference for the second chargeback – as it had been raised by the same customer. Furthermore, if Elavon were unclear that Mr O's defence related to both the chargebacks relating to the same customer, I think it would have been reasonable for it to raise this with Mr O at that point – particularly because multiple chargebacks were referred to within in. Mr O would then have had sufficient time to respond before the deadline of 23 December 2024, likely with the same defence but with the second reference which Elavon wanted.

I'm satisfied in this case that Mr O provided Elavon with information that it should have used to defend the £4,500 chargeback before the deadline of 23 December 2024. Given the evidence available, I think Mr O would have had a reasonable chance of succeeding in defending W against the chargeback claim, and I think Elavon's error prevented him from doing so. I recognise that Elavon has said W can pursue the cardholder directly as the dispute was over goods and services. However, that doesn't feel reasonable in this case given that I think the chargeback against W would likely have been successfully defended if Elavon had taken the actions expected of it when the dispute was raised.

Elavon has explained that it can no longer defend W's chargeback claim due to the deadline having passed. Therefore, as W is unable to defend its chargeback claim via the card scheme provider as a result of Elavon's actions, I think Elavon should refund W the £4,500 it debited from W's account as a chargeback. I also think Elavon should pay W annual interest at 8% simple on the £4,500 from the date it stopped pursuing the chargeback claim until the date of settlement.

I invited W and Elavon to give me any more evidence and information they wanted me to consider before issuing my final decision. W accepted the decision and had nothing further to add. Elavon didn't say whether it agreed or disagreed with the 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.

Having done so, as W responded to say it accepted the decision and had nothing further to add and Elavon hasn't responded with any further information, I see no reason to reach a different conclusion. So, this final decision confirms the findings set out in my provisional decision.

My final decision

My final decision is that I uphold this complaint. I instruct U.S. Bank Europe DAC trading as Elavon Merchant Services to do the following:

- Pay W £4,500 for its chargeback claim.
- Pay W annual interest at 8% simple on the £4,500 from the date it stopped pursuing the chargeback claim, until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask W to accept or reject my decision before 24 December 2025.

Jenny Lomax
Ombudsman