

complaint

D complains that National Westminster Bank plc provided incorrect advice in respect of the clearance of a foreign currency cheque paid into their business account.

background

On 11 June 2012 Mr B, a director of D, deposited a foreign currency cheque into D's business account. By 15 June, the sterling equivalent value of the cheque had been credited to the account.

Mr B says he visited his local branch of NatWest on 22 June and enquired as to whether the funds were cleared. Mr B claims NatWest advised him the cheque had cleared in the account. On reliance of this Mr B says he instructed a payment of £2,400 to a third party.

On 3 July the cheque which had been deposited into D's account on 11 June, was returned as unpaid as it was a forgery. The value of the cheque (after accounting for any difference in the exchange rate) was debited from the account. Mr B claims to have received notification of this incident by post on 6 July.

NatWest has explained that the branch Mr B visited has now closed. However they claim Mr B would simply have been advised of what D's account balance was, as opposed to whether the cheque had cleared or not. NatWest agreed to pay D £192.19; this being a refund of the exchange rate difference between when the cheque was credited and debited from the account and also other charges and interest in recognition of the distress and inconvenience caused by this matter. D is however seeking a full refund of £2,400; this being the payment made on 22 June.

An adjudicator recommended this complaint should be upheld. NatWest does not accept this view and asked that the case be referred to an ombudsman for consideration.

my findings

I have considered all the available evidence and arguments from the outset, in order to decide what is fair and reasonable in the circumstances of this complaint. Evidence has been considered on the balance of probabilities – in other words, what I consider is more likely than not to have happened in light of the available evidence.

On balance of the evidence I think it likely Mr B did make reasonable enquiries to seek advice from NatWest about the clearance process of a foreign currency cheque, prior to authorising the payment to the third party on 22 June. Best practice dictates that Mr B should have been told that there was still a risk that the cheque could be returned unpaid at that stage. I am not satisfied NatWest explained this clearly. I do not think it is likely Mr B would have authorised the payment to the third party, were it not for the assurance that the funds paid into D's account on 11 June were available to withdraw. I consider D's loss to have arisen due to NatWest failing to give proper advice on the fate of the cheque.

my final decision

My final decision is that National Westminster Bank plc should refund £2,400 to D, along with interest at a rate of 8% simple per annum on the amount refunded from 22 June 2012 to

the date of payment. If NatWest considers that it should deduct tax from the interest element of my award it should provide D with the necessary tax deduction certificate.

Robyn McNamee
ombudsman