

complaints involving cheques

This is a factsheet for consumers who are unhappy with something their bank has done involving a cheque – either a cheque they have written themselves or one they have been given by someone else.

This factsheet gives information about some of the problems involving cheques that we see at the Financial Ombudsman Service. It also explains the kinds of cheque-related complaints that we can normally deal with.

If you have a complaint like this, first of all you need to tell your bank or building society that you're not happy – and give them the opportunity to look into things and put right any problem.

If you remain unhappy after the bank has looked at your complaint and told you what it thinks, we may be able to help.

There is more information on our website (www.financial-ombudsman.org.uk) about how and when we can step in – or take a look at our leaflet which your bank should give you. (Or phone us for a leaflet on **0300 123 9 123**.)

what kind of complaints does the ombudsman service look at involving cheques that consumers have written themselves

We regularly deal with complaints from consumers who are unhappy that they have written someone a cheque that their bank won't then pay. The official banking term for this is a "dishonoured" cheque – but most people describe it as a cheque having "bounced".

When we get involved in disputes over bounced cheques, we have to decide whether we think the bank should have paid the cheque or not. Some of the things we look at in cases like this include what money (or overdraft) the customer had available in their account at the time – and whether there were any special arrangements in place.

We also deal with complaints from consumers about banks wrongly paying out on a cheque – for example, where the customer had previously stopped the cheque, or did not sign or authorise it. The banking term for this is "lack of mandate" – which simply means that the bank did not have the necessary permission from its customer to pay the cheque.

what about problems with cheques written by other people?

If a consumer wants to complain that a cheque someone else has given them has "bounced", then we cannot normally help – because that is not something their *own* bank can be blamed for.

But under our rules we *can* look at complaints where someone accepted a cheque supported by a valid cheque-guarantee card – under the Cheque Guarantee Card Scheme – and the cheque then "bounced".

The Cheque Guarantee Card Scheme will close on 30 June 2011 – meaning that it will no longer be possible to guarantee a cheque under the scheme after that date.

Consumers also complain to us if a cheque they have paid into their bank account is later returned unpaid (“bounced”) by the bank of the person who wrote the cheque – and their own bank then “debits” their account to the value of the “dishonoured” cheque.

In these cases, we look at how long it took before the bank debited their customer’s account – and at what point the consumer could have assumed it was safe to spend the money. We also take into account any contact or communication that may have taken place between the consumer and the bank in relation to the disputed cheque.

can the ombudsman service help in a dispute over a stolen cheque?

We can usually look at disputes where a cheque belonging to a consumer – perhaps a cheque that someone sent them but they never received, or one they sent to someone that never arrived – is stolen and paid by the thief into a bank or building society account.

We can generally get involved in these circumstances, even where the consumer is not a customer of the bank or building society where the stolen cheque was paid in. To help us decide whether we think the bank or building society was at fault, we look into the circumstances in which the thief opened the account and paid in the stolen cheque.

what about disputes over cheques that are “lost in the system”?

The system by which cheques are processed and paid (known as the “clearance cycle”) still relies on each individual cheque being transferred between the bank of the person who is paying it in and the bank of the person who wrote the cheque in the first place. This means that a cheque paid into someone’s account can sometimes get lost in the system before it is “cleared”.

If this happens, consumers may find it difficult to find out where exactly in the “clearance cycle” the cheque was lost – and who should take responsibility for this.

In disputes over cheques lost in the banking system, we can look into what happened – and decide whether or not the consumer’s bank should be held responsible for the loss.

what about disputes over banker’s drafts and building society counter cheques?

Although a banker’s draft may look *like* a cheque – and is processed through the banking system in a similar way to cheques – it is not *legally* a cheque. A banker’s draft is written by the bank itself on its own head-office account – and is made payable to whoever the customer wants. Unlike a cheque, a genuine banker’s draft cannot be stopped – even if it is lost or stolen.

A building society counter cheque is written by the building society on its own local branch account – and is made payable to whoever the customer wants. A building society counter cheque can be stopped if it is lost or stolen.

People often treat these two types of payment as being as good as cash. And so consumers often use them to buy goods – especially higher-value items, such as second-hand cars – from someone who might be reluctant to accept a personal cheque, because of the risk of it “bouncing”.

But as many consumers are less familiar with what a banker’s draft or building society counter cheque look like, it can be more difficult to detect a fraudulent or stolen one – especially given the high quality of some fakes.

A consumer might pay a banker's draft or building society counter cheque into their own bank account – and assume it's safe to spend the money – only later to be told that it has turned out to be fraudulent, and to have the money taken back out of their account.

In these cases, consumers often complain that their own bank is at fault for not warning them of the possible risks of accepting a payment of this type – or they complain that the cashier should have spotted the fake when they paid it in.

To help us decide whether we think the bank was at fault in cases like this, we look into the individual circumstances involved – taking into account any contact or communication that may have taken place between the consumer and their bank.

If we decide that the bank was at fault, we consider what options the consumer would have had, if the problem had come to light earlier.

phone **0300 123 9 123** (8am to 6pm, Monday to Friday)

www.financial-ombudsman.org.uk

This factsheet for consumers is only a general guide. It is not legal advice. We look at each case on its own individual facts and merits. We will always give you the chance to query anything you don't understand or agree with.

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