

## complaint

Mr C complains that Tesco Personal Finance plc won't accept his "cheque" for the payment of his credit card bill.

## background

Mr C had a credit card account with Tesco Personal Finance. To settle an outstanding bill of around £860 he sent Tesco a "cheque" drawn on WeRe Bank. Tesco refused to accept it or to credit Mr C's card account. It later issued a notice of default on the account and indicated it would be closed. Mr C says it should have accepted the "cheque" as payment.

One of our adjudicators considered the case. She agreed with Tesco that it didn't have to have accept payment in the form Mr C had offered it. Mr C didn't agree and asked that an ombudsman look at the matter.

## my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

It's clear from his arguments that Mr C has done a lot of research into the law and history of banking and of cheques. I've no reason to doubt that he sincerely believes that Tesco should treat his "cheque" as a valid payment. But, for reasons I'll explain, I think he's wrong about that.

The Bills of Exchange Act 1882 says that a bill of exchange is "*an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to or to the order of a specified person, or to bearer.*"

Mr C says his "cheque" is just that. And it certainly looks like Mr C's instruction to WeRe Bank to pay Tesco Personal Finance a specified sum.

The same act of Parliament says a cheque is a bill of exchange "*...drawn on a banker and payable on demand*". Mr C's "cheque" does appear to be payable on demand, rather than at some point in the future. But is it drawn on a banker? Put another way, is WeRe a bank?

Mr C says it is, since it engages in banking business. For example, it takes deposits, although these appear to be in the form of fees in exchange for membership and "cheques" of the type he's tried to use here.

But WeRe Bank isn't a bank in the way most people – and, importantly, other financial businesses – would understand the term. It has no banking licence, either in the United Kingdom or anywhere else. It's not covered by the regulator, the Financial Conduct Authority, or by this service. The sort code printed on its cheque isn't one that's recognised by the cheque clearing system. Its activities appear to be limited to taking fees from people like Mr C and sending them printed documents that look like cheques – with an assurance that they can be used to make payments.

Mr C says that Tesco Personal Finance was obliged to accept his "cheque" as payment and to seek payment itself from WeRe Bank. And he's cited legal authority saying that a cheque is as good as cash. The courts have said a creditor should accept a cheque unless there's

good reason not to. Had Mr C used a cheque drawn on a properly licensed bank with which he had an account, I might be inclined to agree with him that Tesco should have accepted it. But he didn't.

It's possible that, had Tesco contacted the "clearing hotline" (on the face of it, a mobile phone number) printed on the "cheque", WeRe Bank would have paid the amount on the cheque with money it had received from Mr C. But, in the circumstances, Tesco was entitled to think that wouldn't happen. Certainly, it wasn't going to receive payment through the normal cheque clearing channels. In the circumstances, I don't need to decide if WeRe Bank is actually a bank or if what Mr C tried to pay with was really a cheque. Tesco was within its rights to treat the "cheque" as little more than a worthless piece of paper and to ask Mr C to make payment through more conventional means.

### **my final decision**

My final decision is that Tesco Personal Finance plc doesn't have to do anything to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 23 March 2016.

Michael Ingram  
**ombudsman**