

The complaint

X complains about the service X received from Marks & Spencer Financial Services Plc including a manager being rude and aggressive.

What happened

I issued my provisional decision on this complaint on 27 January 2024, and this is what I said:

I've considered the relevant information about this complaint.

Based on what I've seen so far, there will be a different outcome to what our investigator proposed. Before I issue my final decision, I wanted to give everyone a chance to reply.

I'll look at any more comments and evidence that I get by 9 February 2024. But unless the information changes my mind, my final decision is likely to be along the following lines.

The complaint

X complains about the service X received from Marks & Spencer Financial Services Plc including a manager being rude and aggressive.

What happened

X paid for foreign currency through Marks & Spencer's on-line click and collect travel money service. X's complaint is about the service X received when X went to collect his/her currency.

X's main complaint is that, due to an apparent fault with Marks & Spencer's on-line service which hadn't captured all the required information, X became involved in an altercation with the foreign exchange manager as he was unable to match and verify X's name. X says he was rude and aggressive towards X.

Also, although X eventually collected his/her currency, X describes how the Marks & Spencer manager called X "very rude" loudly within earshot of others and walked away leaving X standing at the till. X was extremely upset and felt embarrassed. X feels humiliated and can no longer go to the store which X enjoyed regularly visiting.

X has additional complaints.

X says that upon arrival at the store, it wasn't clear where X needed to go and when X enquired and stated his/her intention to collect money, this was communicated loudly by a staff member across the shop floor to the foreign exchange manager, and X feels this behaviour could've put X at risk.

Also, X thinks Marks & Spencer have a technology issue, which caused the information discrepancy and triggered the incident with the manager, and X wants to ensure other customers don't suffer the same experience.

X wrote to Marks & Spencer's CEO and received a call from a complaints team representative. The representative was extremely apologetic, recognised X's upset and said she wanted to compensate X with £75 for the "horrific service".

X told the representative that X felt there were issues to be addressed and after a discussion the representative said she would be passing on all the concerns and they would try to identify the manager and address the other issues. The representative obtained X's details to compensate X and concluded by saying she would send X an email which would enable X to complain to our service.

X subsequently complained to our service, but our investigator considered Marks & Spencer's response and compensation to have been reasonable.

As X remains dissatisfied, this case has now been referred to me to look at.

What I've provisionally 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 have a different view to the investigator. I'm still upholding this complaint, but I'm increasing the award and I'll explain why.

From reviewing the file, I should first say that, following the complaint handler call, both parties had a different perspective on the resolution of this complaint.

Although X accepted the £75 compensation offered, X still expected an update and / or outcome of Marks & Spencer's investigation. Also, reassurance and a further apology so X can once again visit their store where the foreign exchange manager works. Without this X thinks Marks & Spencer haven't taken X's complaint seriously or addressed the issues.

Whereas Marks & Spencer thought they had appropriately apologised, given X assurance they would pass on X's concerns, and were under the impression that X was satisfied with this as a resolution.

Whilst I understand X's requirements here, having listened to the call and viewed Marks & Spencer's final response email, I can understand why Marks & Spencer had gained this impression.

However, I recognise that X was probably surprised to receive a call from a Marks & Spencer representative and, as the final response e-mail didn't summarise the conversation or confirm X's complaint was upheld, X may have been unable to recall what was said or wanted a different resolution upon reflection.

X is looking for reassurance that all his/her complaints have been addressed and feels Marks & Spencer's response is inadequate.

The complaints representative gave the impression she agreed with all of X's complaints and indicated they would be looked at.

From the information currently on file, I can see that the foreign exchange manager was identified and X's concerns about his behaviour were passed on and looked at, which is what they committed to do. However, there is no information on any action Marks & Spencer have taken.

I must point out there are limits to our ability to help X gain answers from Marks & Spencer about how they've addressed the concerns X articulated in her complaint. I say this for the following reasons:

- We are not the regulator of financial services. So, I can't instruct a business to investigate matters, share findings where an investigation has taken place or to review or implement improvements to signage, policies, procedures or systems such as click and collect.*
- Also, I can't compel a business to take disciplinary action against an employee or ask an employee to apologise. And businesses will have responsibilities as an employer, so they are unlikely to be able to share any updates or actions that involve their employees.*
- There are rules (known as DISP Rules) laid down by the Financial Conduct Authority (the regulator) which means complaint handling is not a regulated activity. So, I can't instruct a business or make a finding on how they handle complaints.*

However, what we can do is consider each individual case and, where we think a business hasn't acted fairly and reasonably in the circumstances, our role is to decide what should be done to put right any financial or non-financial losses that a consumer has experienced. So, we can ask a business to pay a proportionate level of compensation.

Regarding the foreign exchange managers behaviour, it's not totally clear if Marks & Spencer uphold this complaint. I say this because neither their call nor final response letter refer to a complaint uphold and there are no investigation notes or findings. However, the complaint handler was extremely apologetic and offered compensation due to the manager's behaviour.

In cases where information is incomplete or contradictory, I must reach my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available information.

Marks & Spencer haven't provided any CCTV footage, comments, testimonies including from the manager or investigation report. The only information they have submitted is a brief account from another manager who says X was unhappy with several service aspects which appears to have had an impact on the foreign exchange manager. So, I considered this together with X's testimony.

I also took the complaint handler's call comments into consideration. However, although I found the complaint handler to be in full agreement with X, that the manager's behaviour was very wrong, in terms of determining whether the manager was rude, I gave little weight as her comments appear to have been derived from X's written and verbal account and not based on any evidence.

I found X's testimony very persuasive. I think X became distressed when X entered Marks & Spencer. This was because X was unclear on where X had to go to collect his/her currency and a staff member shouted out X's requirement. Also, as there appears to have been a technology issue, I think it more likely than not that the foreign exchange manager did state there was a verification issue and not offer a solution. And this caused further distress for X and led to an altercation as X pointed out it wasn't his/her fault. The foreign exchange manager was then likely to have been confronted with a combination of a dissatisfied customer and a difficult situation and, I think it more likely than not that he then reacted in the wrong way – calling X rude, telling X he wouldn't serve X and then walking away. So, on balance of probabilities, I'm satisfied that X experienced extremely poor service here.

I'm also persuaded from calls, in which X became emotional, that there has been a significant impact here. This is because X was in a store where X knows people and enjoys visiting and was very publicly presented as being a rude person. So, I'm persuaded that X found this upsetting, embarrassing and humiliating.

Also, X is worried about seeing people in the store including the foreign exchange manager who still works there, so X feels X can't visit anymore. X describes how much X enjoys visiting Marks & Spencer and explains X now has to travel a longer distance and have extra transportation costs. So, I'm satisfied that the impact of the manager's behaviour is long lasting.

As mentioned above, I can't tell Marks & Spencer to either move or discipline the manager, however I can look at compensation.

With regards to compensation, there's a lack of evidence to say that Marks & Spencer made signage, communication and technology errors here. However, considering it is more likely than not that the manager was rude to X, and this has had a serious impact on X, I don't think £75 compensation is sufficient compensation for a service issue which Marks & Spencer's complaint handler both recognised and called "horrific".

Assessing compensation isn't an exact science and our approach when making awards for non-financial loss is detailed on our website and tends to be modest. So, having considered this and all the above I'm upholding this complaint and I think a fair and reasonable amount of compensation is £250.

My provisional decision

For the reasons I've given above, it's my provisional decision to uphold this complaint and I require Marks & Spencer Financial Services Plc to:

- *Pay £250 compensation to X*

I'll look at anything else anyone wants to give me – so long as I get it before 9 February 2024.

Unless that information changes my mind, my final decision is likely to be as I've set out above.

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.

I would like to thank both parties for their prompt and helpful responses.

Marks & Spencer agreed with the provisional decision.

X clarified his/her understanding of the Marks & Spencer initial £75 compensation offer and explained that X's complaint "was not about the money, this was about my inability to feel that I would be able to return to their store".

Also, X added that X "assumed that there would, at a later time, be some sort of assurance to allay my fears".

X also described a recent visit to the store and how X felt when X saw the foreign exchange manager. X said, "all of those feelings came back, and I have not since returned".

X added that X had hoped that our service *“would be able to do something which would encourage M & S to give me some kind of assurance that I could shop freely there without fearing another confrontation from any of their staff including this particular person”*.

X concluded by saying X hopes any ombudsman award will *“make M & S take some kind of positive action on my concerns”*.

X’s comments further confirmed that the impact of the manager’s behaviour has been long lasting, so I reviewed the impact and compensation award. Having done so, I’m satisfied £250 award is a fair and reasonable award to put things right.

X is aware that there are limits to how our service can help here – that I can’t instruct Marks & Spencer to investigate matters, share findings, implement improvements, take disciplinary action against an employee or ask an employee to apologise. Whilst I empathise with X’s situation here, I can’t tell Marks & Spencer to review this outcome and look at ways to give X the assurance that X seeks.

So, as no further arguments or evidence have been produced, following a further review of this complaint, I adopt my provisional decision and reasons as my final decision.

My final decision

For the reasons given in my provisional decision, my final decision is that I uphold this complaint and I require Marks & Spencer Financial Services Plc to:

- Pay X £250 compensation

Under the rules of the Financial Ombudsman Service, I’m required to ask X to accept or reject my decision before 27 February 2024.

Paul Douglas
Ombudsman