

Businesses Warned To Beware Of Part-payment Trap

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By Claire West

Businesses which accept a cheque from a customer in part payment of an account should beware of a trap which allows the customer to avoid paying the balance outstanding, warns law firm DWF.

David Astbury, litigation partner with DWF, says: *“Our clients have reported a number of occasions recently where slow-paying customers have tried this tactic to avoid paying the full amount they owe and the accounts team have failed to spot the warning signs until it is too late.*

“The situation arises when a customer presents a cheque for part of the balance that claims to be in ‘full and final settlement’ of the whole amount. Often these part-payments are accompanied by allegations about the quality of goods and services provided or some other complaint.

*“If you bank a cheque in these circumstances, your **business** will probably be deemed to have accepted it in settlement of the whole account. You will not be able to recover the full amount due - even if the cheque bounces or is stopped!*

“Beware also of hanging on to the cheque without making your position clear as this may have the same effect as actually banking it if you delay too long. It is all the more annoying that, if you do fall victim to this trap, you may still find you are liable for any claims the customer may have in relation to the goods you’ve supplied.”

He recommends that accounts departments and credit control teams are trained to recognise the danger signs and to manage them pro-actively:

- They should recognise the financial implications of any complaint or potential dispute raised by the customer and obtain an early and clear management decision about whether a part payment is acceptable.
- If the customer's offer is acceptable, they should state clearly in writing that the part payment will only be acceptable if the cheque clears on first presentation.
- If the offer is not acceptable they should contact the customer and make it clear that the cheque is accepted only as a part payment and not in final settlement. They should also state that you will allow a period of, say, seven days before banking the cheque so the customer can stop it if they are unwilling to accept this.