

The complaint

Mr K complains Bank of Scotland plc (“BoS”) refused to make a payment bound for Russia in April 2022. Mr K says he wasn’t given a specific reason for any sanctions that applied, and BoS should have helped him with any applicable exceptions.

What happened

On 17 March 2022, Mr K attempted to make a payment of around £4,000 to a Russian bank account. As the beneficiary didn’t receive these funds, Mr K contacted BoS. Mr K was told the payment was subject to its internal checks.

Mr K complained about the poor customer service he had received, BoS accepted its service fell short and awarded Mr K £200 compensation.

Mr K explained to BoS the extremely sensitive situation for why he needed to send the payment to a lawyer’s account for legal fees he owed. On 7 April 2022, the payment was declined and the funds including a fee previously charged for the payment, were returned to Mr K’s account. Unhappy about BoS’ decision Mr K complained.

There have been several responses from BoS after the payment was returned to him. In summary, some of the key points it made were:

- Despite the payment being made on 17 March 2022, it was still pending a review on 6 April 2022. These types of checks are carried out to ensure payments are not in breach of any sanctions and regulations enforced by the UK Government
- Because of the number of payments being made to Russia, as well as the additional checks that needed to be carried out, BoS were working through a two-week backlog. This meant there were longer delays that could not be avoided
- On 7 April 2022, BoS’ compliance team decided the payment couldn’t be approved due to the sanctions in place. It appreciates this caused Mr K frustration, but BoS can’t provide information about the specific sanction stopping the payment
- Sanctions and regulations are changing daily and by the hour, so BoS couldn’t determine when a payment may successfully be sent
- As Mr K didn’t receive a call from one of BoS’ staff as promised, a £100 payment has been credited to his account for the inconvenience suffered
- It is important for BoS to be able to support its customer where possible, and it considered all options in supporting Mr K with his payment. BoS is sorry Mr K feels its service hasn’t been at the level he expects. Whilst it endeavours to provide a high level of service, it’s paramount BoS ensures it adheres to any applicable rules and regulations

Mr K referred his complaint to this service. One of our Investigator’s looked into it. BoS didn’t agree this service could consider Mr K’s complaint as it was made outside the time limits that

apply. Namely, that it had been referred to this service more than six months after BoS issued its final response letter.

In short, Mr K said his complaint about the declined payment had been made later than the previous final response which dealt with customer service issues regarding the payment being withheld by BoS for checks. After first finding this wasn't a complaint we could consider, our Investigator said Mr K's complaint was one that we could. BoS agreed and sent its submissions to this service.

Our Investigator then sent Mr K their finding on the merits of their complaint against BoS. They didn't recommend Mr K's complaint is upheld. In short, they made the following findings:

- At the time of the payment instruction, there was a lot of uncertainty regarding payments to Russia due to ongoing and escalating regulations and sanctions. They were being released on a weekly basis by the UK government
- The reason Mr K's payment was blocked was due to the beneficiary's bank being sanctioned on 1 March 2022. Based on that information, BoS acted correctly in stopping the payment and wouldn't have the authority to send such a payment without the sanctions being lifted
- Mr K said some payments can be exempt from sanctions, but this isn't at BoS' discretion. For a payment to be exempted in this way, Mr K would need to obtain a license from the "Office of Financial Sanctions Implementation" (OFSI). This UK government body is solely able to grant licenses for payments to sanctioned bodies
- BoS could've communicated better with Mr K and provided a better explanation about why the payment couldn't be sent. But that doesn't change the fact it couldn't. BoS' compensation for its poor information and customer service is fair in the circumstances

Mr K didn't agree with what our Investigator said. In summary, some of the key points he made are:

- the overall £300 compensation BoS paid him is insulting and more should be paid given the extreme and highly sensitive predicament he was in therefore the reason why he needed to send the payment urgently
- Mr K's payment was made on 17 March 2022, and the Russian bank it was destined for was only sanctioned on 6 April 2022 – as he was told on a call with BoS. So this is at odds with the Investigator saying they were imposed on 1 March 2022
- BoS should have explained the OFSI exception procedure to Mr K, and offered to help with the process and application

Our Investigator responded to Mr K. They reiterated some of their previous findings, but elaborated on the following points:

- Payments, particularly international ones go through various checks, and this can take some time. It's a complex and time-consuming process to review up-to-date sanctions and ensure they're applied correctly. They were satisfied the sanction was in place prior to the payment instruction - this information is available on the government's website

- They agreed BoS could've directed Mr K to OFSI, however there's no way of telling if a licence for the payment would've been granted. So they're not able to say it would have made a difference
- This service deals with complaints about whether a consumer has been treated fairly under any relevant rules and regulations. We wouldn't expect a business to refer them to the regulator – the Financial Conduct Authority (FCA)

Mr K didn't agree and, amongst other previously made points, he said he had asked BoS about how to make exemption payments to Russia, and it should therefore have done much more to help him given his situation. Because of this, it failed to treat him fairly.

In response, our Investigator said this service reviews individual complaints to see if a business has acted fairly. They also re-emphasised that they thought BoS didn't do anything wrong by not sending the payment due to UK government sanctions.

As Mr K didn't agree, his complaint has now been passed to me to decide.

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.

Having done so, I've decided not to uphold this complaint. I know Mr K feels strongly about his complaint, and I don't undervalue in any way the serious and extremely sensitive reason for why sending the payment was so time critical for him and his family. So I'll explain why.

Firstly, I'm very aware that I've summarised the events in this complaint in far less detail than the parties and I've done so using my own words. No discourtesy is intended by me in taking this approach. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I do stress however that I've considered everything Mr K and BoS have said before reaching my decision.

Bos has important legal and regulatory obligations it must meet when processing payment instructions for its customers, which includes ensuring no UK or other international sanctions might be breached. Those obligations are overriding in terms of otherwise meeting general timeframes for processing payments. And this is the same for every bank. This does mean that sometimes payment instructions are justifiably declined.

Mr K argues that had BoS acted as it should have, and not held onto and reviewed his payment, it would've been sent to the beneficiary bank in Russia. That's because the relevant sanction against that bank wouldn't have been in place at the time of his instruction.

There is some dispute as to when the UK government placed a sanction on the Russian bank based on what is reported on the government's website. But even if I were to accept that it was imposed on the 6 April 2022, I'm persuaded BoS hasn't done anything wrong in withholding the payment whilst it carried out its checks.

At the time of the payment instruction there was significant activity relating to Russian sanctions being imposed. And not just in the UK, but on an international level. BoS has said

this was changing daily and at times on an hourly basis. It's also said this caused a substantive demand on its services to check all payments bound for Russia – and so caused significant delays in its ability and timeliness to carry out such reviews.

Having carefully considered this, I don't think it was unreasonable that it took the time it did to review the payment. So I'm persuaded BoS did nothing wrong when declining Mr K's payment instruction in April 2022.

If BoS failed to implement UK sanctions it could've faced serious repercussions. So I'm satisfied by taking the approach it did, this was both reasonable and proportionate in the circumstances. I also note the beneficiary bank in Russia has been subject to previous sanctions being imposed against it by the UK government. So I think it's likely to have made the situation even more complex.

Mr K argues that BoS should have told him what specific sanction applied to his payment. BoS did tell Mr K his payment couldn't be approved due to the sanctions in place. But given this information is available publicly, I'm satisfied BoS should have told him the specific sanction it had applied to the payment. Having said that, I'm not persuaded a better disclosure here would have altered Mr K's position as the payment would still not have been sent to the sanctioned Russian bank.

Mr K also argues that given the payment was for a very sensitive and critical reason, BoS should have told him that he could apply for a licence from OFSI. I can understand why Mr K feels this way, and I don't doubt being told this would've helped him.

But I'm not aware of any obligation under which BoS has to provide advice to Mr K under these circumstances. BoS told Mr K the payment wasn't being processed due to UK sanctions. So it was for him to seek independent legal advice.

BoS accepted on two occasions that its communication and customer service below the standards it expects. Because of this it has paid Mr K £300 for the distress and inconvenience this caused.

On balance, I think this is fair compensation. I say that because its withholding and review of the payment, the time it took to do this, and not processing it were done in line with its obligations. And I've already said its actions were reasonable given the prevailing circumstances.

That means I need to look at the poor customer service elements in isolation. And having done that, I'm persuaded the compensation Mr K's been awarded is fair. In saying this, I once again don't undervalue what Mr K would've been going through on a personal and familial level.

Lastly, our Investigator is correct to say that we have a statutory duty to resolve individual complaints, and anything about a business' wider operation and processes is something the regulator, the Financial Conduct Authority, deal with. The scope of our purpose and powers are contained in the Financial Services and Markets Act 2000, and in the FCA's DISP handbook.

My final decision

For the reasons above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 22 December 2023.

Ketan Nagla
Ombudsman