

The complaint

Mr H complains that The Royal Bank of Scotland Plc (RBS) hasn't refunded him after he fell victim to a scam.

What happened

The background to this complaint is well-known to both parties. I've issued a final decision on a complaint linked to this, but against a different bank, which has been sent to Mr H. That decision confirms many of the important background details. With those facts in mind, I'll not provide an extensive background here.

Mr H engaged the services of a limited company – whom I'll refer to as A – to paint his house. The contract was agreed and Mr H made three payments to an account held by RBS, using the account details given by A. The first two were to cover a 25% deposit and were both paid in February 2022. The third payment was made after the initial stage of work had been completed. The money was meant to cover a portion of the final stage of work, but A never returned to complete the job. Nor did it return any money to Mr H.

Mr H reported what had happened to RBS, telling it A had scammed him. RBS said it wouldn't refund Mr H. Over the course of the complaint, and in bringing it to our service, Mr H has highlighted several issues he is unhappy with, and I've set these out below. I've also included some points that are relevant to the outcome of the complaint, but where Mr H may not have specifically raised the issue:

- RBS has declined to reimburse him under the Lending Standards Board's Contingent Reimbursement Model (CRM) Code;
- RBS accepted payments into an account where the payee name he gave on his payment instruction differed to the name on the account;
- Mr H questions whether RBS did its part in respect of a Confirmation of Payee check, which ought to have been carried out when he made the first payment to A;
- The information in bullet point two only became known to Mr H as a result of a data breach on RBS' part;
- RBS allowed a scammer to open and operate an account;
- RBS failed to properly monitor the account for signs of fraud;
- RBS didn't act quickly enough to secure his funds once notified of the scam.

By way of further background, and without setting out all my reasoning again here, I didn't uphold Mr H's linked complaint against the bank from which he sent the funds. I concluded Mr H and A had a civil dispute, rather than it being a case of Mr H having been scammed by A.

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'm sorry to disappoint Mr H further but I'm not upholding his complaint against RBS. I've considered all he has said and all the evidence he has provided. I know he is very disappointed with the service given by RBS and his trust in it is very low. But after careful consideration I can't see there are fair and reasonable grounds on which I can say it ought to reimburse Mr H's loss.

Mr H has gone into a lot of detail in presenting his complaint to RBS and this service. As with the setting out of the background to this complaint, I won't be commenting on or addressing every point he has raised. I have considered everything he has said, but my findings focus on the key elements of the complaint and address the outcome holistically.

Mr H is able to bring a complaint against RBS because it is the bank that received the money he sent, and where there is an allegation of fraud. The CRM Code also grants him the right to make a complaint against RBS in its role as receiving bank for the same reasons.

However, given my findings on Mr H's linked complaint, many of the complaint points I've listed in the 'what happened' section of this decision fall away. Those include:

- RBS has declined to reimburse him under the Lending Standards Board's Contingent Reimbursement Model (CRM) Code;
- RBS allowed a scammer to open and operate an account;
- RBS failed to properly monitor the account for signs of fraud;
- RBS didn't act quickly enough to secure his funds once notified of the scam.

I've found that the circumstances around the payments made by Mr H are reflective of a civil dispute, not a scam. And so any complaint points linked to the payments having been made as part of a scam, and RBS' actions or inactions as far as a scam are concerned, can't be upheld.

That leaves a few complaint points that I still need to address.

RBS accepted payments into an account where the payee name he gave on his payment instruction differed to the name on the account

It is true that RBS accepted payments into the account when the name wasn't an exact match. The name of the limited company on the account had an additional word in the title when compared to the payee name Mr H stated on the payment instruction (which was given to him by A).

But, as I've explained on Mr H's linked complaint, the account/payee name isn't used to direct or allocate bank transfers. Instead, the banking system relies on 'unique identifiers', as per the relevant regulations (the Payment Service Regulations 2017). In practice, and for the purpose of the payments made by Mr H, that means the account number and sort code.

This means there was no need for RBS to check the payee name matched the account name, at least in respect of accepting the payments into the account.

Mr H questions whether RBS did its part in respect of a Confirmation of Payee check, which ought to have been carried out when he made the first payment to A

Mr H is certain that he received no warning that the payee name he entered on his payment instruction didn't match the name on the destination account. Such a warning ought to have been given since the Confirmation of Payee (CoP) system was in place and ought to have been working.

Our investigator has asked RBS for evidence that it responded to a CoP request from Mr H's sending bank when he made the first payment. But it appears it's been unable to provide such evidence.

I made the finding on Mr H's linked complaint that I believed it was more likely than not a CoP check was completed, with a 'maybe a match' response being given. That was because the sending bank had provided evidence of the CoP check being successfully completed at the time the payee was first created.

It then follows that RBS must have responded to the CoP check in order for such a result to be generated. That RBS can't now provide the complimentary evidence doesn't undo the findings already made. And it doesn't present a fair and reasonable argument for saying RBS ought now to be responsible for Mr H's loss, especially given my finding that the matter at the heart of the complaint is a civil dispute.

The information in bullet point two only became known to Mr H as a result of a data breach on RBS' part

There is no complaint Mr H is able to make to the Financial Ombudsman Service in respect of a data breach where it is not his personal information that was involved. He wouldn't be an eligible complainant in trying to make a complaint about someone else's data or personal information being shared, or the circumstances around such a breach.

I know Mr H is unhappy that RBS denied the data breach even occurred. He's suggested this is reflective of the bank's dishonesty and incompetence. But whilst RBS might have incorrectly denied that a data breach occurred, and accepting this would have been frustrating and alarming for Mr H, I don't take this as an indication that all its other actions must have been dishonest and erroneous. Nor do I find there is a significant error here, in terms of what Mr H can bring a complaint about, that would lead to his loss being refunded by RBS or another form of compensation becoming payable.

My final decision

I don't uphold this complaint against Royal Bank of Scotland Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 30 May 2024.

Ben Murray
Ombudsman