

The complaint

Mr B has complained The Royal Bank of Scotland Plc charged him fees for processing international cheques.

What happened

Mr B opened an account with RBS in January 2019. In March Mr B noticed a transaction he didn't make and complained to both the supplier and RBS. RBS gave Mr B a new card and the money was refunded.

Just after that someone paid in six US dollar cheques into Mr B's account. All cheques were made out to Mr B using his full name. These transactions were carried out in four RBS branches in the south and west of England and Wales from 25 March until 1 April. Mr B lives many miles away from this. All cheques were fraudulent. The first one was identified as such. RBS called Mr B to clarify what he knew about the payment. He told them he knew nothing about this cheque. RBS warned him to change his online password.

The other cheques weren't identified as fraudulent initially. However these five cheques were all returned unpaid and Mr B's account was charged with fees for paying in currency cheques to a sterling account and processing these.

By this stage Mr B had stopped using his RBS account as he'd lost trust in it following the two fraud instances. He also wasn't opening post he'd got from RBS although they'd written to him about the fraudulent cheques. RBS then gave Mr B 60 days' notice of their intention to close his accounts as he was overdrawn and not responding to them (he also had a savings account a close relative had opened for him when he'd been younger). They were expecting him to repay £334.10 for the fees charged to his account.

As Mr B couldn't get RBS to agree to waive these fees, he brought his complaint to the ombudsman service.

Our investigator felt that the evidence pointed to Mr B knowing what had been going on even though it was clear he'd not paid in the cheques himself. He didn't think it was fair to ask RBS to waive the charge.

Mr B has asked an ombudsman to review his complaint.

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 reached a similar conclusion to our investigator. I'll explain why.

RBS has charged Mr B a total of £334.10 for processing five US dollar currency cheques. I have to decide whether what they've done is fair and reasonable based on the evidence they and Mr B have provided.

I can see the timeline of events, each party's testimony and how the transactions were made were covered in our investigator's views of 28 April and 19 May 2020. I don't intend to repeat everything that was said there. I will, of course, refer to those aspects which form the basis of my decision.

Overall I don't think it would be fair and reasonable to ask RBS to waive the charges made to Mr B's account. Although I don't think for one minute that Mr B paid in the cheques to his own account, I think it's more likely than not that he knew something was going on, even if he wasn't aware of all of the details. His actions lead me to think this. Specifically:

- There's no explanation of how somebody would have known Mr B's online banking details. Records show a further device was set up using Mr B's online banking details in March (sometime before his card was used fraudulently). Mr B has told us he hasn't shared his details with anybody and has confirmed he has only one mobile. But I can't see how someone would have randomly known his details and set up another device without Mr B sharing his details first.
- After the first cheque was identified as potentially fraudulent, RBS suggested Mr B change his online password. Although he told us he thought he did do that, that doesn't match Mr B's account records.
- The cheques were made out to Mr B. Not just using his initials but his full name. As his full name wasn't on his own debit card, I am left to wonder how an unknown third party would have known this.
- Although Mr B wasn't using his account, he was still logging on – using his own mobile – regularly in late March and April. This suggests he was checking for something. I suspect he was checking to see whether the cheques – or other funds that may have been expected – had been credited to his account.
- Paying in foreign currency cheques isn't a quick business. It will always take time for those items to be cleared, processed and paid out even when the cheques are genuine. It's likely because of the time that was going to be taken for any funds to credit Mr B's account that any fraudster would have made sure they had access to the account for the whole period it was required. This fits with both Mr B and whoever was also accessing his account online both logging in regularly throughout.

I doubt if Mr B knew all the specifics of what was going on but the evidence suggests he'd allowed someone – whether voluntarily or been persuaded to do so – to use his current account. This would enable fraudulent funds to be paid into the account which a fraudster would then be able to transfer elsewhere.

On his behalf, Mr B's father has wondered why RBS failed to spot the foreign currency cheques earlier. This is a valid question and I have wondered the same. I certainly wouldn't expect RBS to wonder why cheques were being paid into a branch hundreds of miles of Mr B's own branch. Lots of people use a bank branch miles from their 'home' branch. All the cheques were paid into deposit machines in different branches so it seems a fraudster was trying to minimise being spotted. But foreign currency cheques aren't the most frequent branch transaction and these were all reasonably high-value – all were for more than \$4,000. So I think that I may have expected the two branches that were used twice to have noticed the pair of cheques that were paid into their branches, albeit on separate days.

So I've considered whether that means that RBS should have done more. Perhaps they should have but overall I don't think this would have made any difference. Mr B was already aware that a cheque had been identified as fraudulent and hadn't taken the steps suggested to protect his account. I'm not sure he'd have treated further advice in any different manner.

Overall I appreciate Mr B will be disappointed but I don't think it would be fair to ask RBS to waive the charge they levied on him.

My final decision

For the reasons I've given, my final decision is not to uphold Mr B's complaint against The Royal Bank of Scotland Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 17 September 2020.

Sandra Quinn
Ombudsman