

The complaint

Mr A complains that The Royal Bank of Scotland Plc has registered a marker at CIFAS, the national fraud database and he says he has been the victim of identity fraud.

What happened

Mr A says he found out about the marker when he tried to apply for a mortgage early in 2020. He says that he didn't open an account at RBS in November 2015 and carry out any fraud. He left this country in October 2015 and didn't return until November 2018.

RBS says that it made checks to confirm Mr A's identity when he opened the account. It has provided a copy of his passport, his leave to remain here as a student until 31 October 2018 and a letter from the tax office confirming his tax details. The account was used fraudulently in February 2016 and it was closed and the CIFAS marker added. It doesn't accept that the account was opened by someone else.

Our investigator didn't recommend that the complaint be upheld. He considered the documents provided by RBS and Mr A. The pictures in the photocopied documents from RBS weren't clear enough to show whether they were or weren't a likeness to Mr A. He had a genuine student visa that covered the period from 21 January 2015 to 7 October 2015. Mr A had provided a picture of a stamp he says was in his passport showing he returned overseas on 9 October 2015. Mr A says that as he has lost that passport he doesn't have any further pages of it. The application to RBS had a student visa between 28 October 2015 and 31 October 2018. Mr A says he didn't return to this country until 1 November 2018 having got married abroad on 21 May 2018 as shown in a marriage certificate. Mr A provided evidence he received leave to remain here on a 'five-year partner route' from 1 November 2018.

Mr A hadn't shown that he didn't return to this country again before 1 November 2018. And the further student visa slotted neatly between the previous one and his leave to remain as a partner. The RBS account was used normally for a period with what seemed to be wages payments. And the costs of obtaining fake documents would have been high in relation to the scale of this fraud. He didn't think that Mr A had been the victim of identity theft and so he considered that the CIFAS marker was justified.

Mr A didn't agree and wanted his complaint to be reviewed. He provided videos of online screen shots of his tax returns which he said showed that he had no employment income after October 2015. He says this income started again in April 2018 when he was employed in this country but worked from abroad. Mr A says he wasn't employed until then while abroad and so has no paperwork and was living with family. He provided a bank statement for his overseas bank account covering the period between 1 February 2017 and 30 November 2018 and showing he was using this from 4 August 2017. He said other accounts in his name at different businesses in this country and shown on his credit record were also opened at around the same time without his knowledge. He only had one genuine bank account here.

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.

This service provides informal dispute resolution and it's up to Mr A and RBS to provide evidence and submissions. While Mr A has referred to us contacting the tax office and home office for information it's fairly down to him to support what he says with evidence. And I consider he has had an ample opportunity to do so.

RBS appears to have copies of genuine documents which it verified in the normal way when the account was opened. Mr A says he left this country in October 2015 which must have been with a passport. So, his position seems to be that the documents RBS had weren't genuine ones. As our investigator says it isn't impossible to obtain forged documents but the expense and trouble of doing so would seem likely to be prohibitive here. And any person doing so would have had to know about Mr A's immigration and work history to create a new student visa consistent with the previous one and a document from the tax office consistent with his past employment.

Mr A says he worked for a couple of weeks in September and October 2015 before he left. That's not inconsistent with the date he finished a course that year and what he's shown us about his tax records. But the new visa was also for him to be a student from 28 October 2015, so he mightn't have again been working. And I can't say from the RBS statement what the payments through BACS were. But the point remains that the account was used normally for a period before the fraudulent payment was received.

Even if I was to accept that Mr A was out of this country for the periods when his overseas account was being used – for what it seems were online payments - that still doesn't cover what he was doing when the RBS account was opened.

I'm afraid Mr A has simply not been able to show what he was then doing and that he was not in this country. The documents from RBS are entirely consistent with him being able to return. And so, I think that it's most likely this account was opened with his knowledge and that he had control over how it was used. I don't find on balance he was the victim of identity fraud.

That being the case then as the account had been shown to be used for fraudulent purposes I find that RBS has met the high bar for a CIFAS marker. This essentially means that RBS has shown it had reasonable grounds to believe that a fraud or financial crime had been committed or attempted and that the evidence would support this being reported to the authorities.

I appreciate Mr A will be very disappointed with my conclusions.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 15 February 2021.

Michael Crewe
Ombudsman