

## **The complaint**

Ms M complains about The Royal Bank of Scotland Plc's decision to review and restrict her access to her account after she made a scam report.

Ms M's linked complaint that she has been the victim of a scam is being considered separately.

Ms M is represented by her grandson and power of attorney, Mr M. To make my decision easier to read, I will sometimes refer to Ms M even when it was Mr M that said or did something. I intend no discourtesy by taking this approach.

## **What happened**

The detailed background to this complaint is well known to both parties. As such, I'll provide only an overview of the most essential facts here.

In Spring 2020, Ms M sold her home. When she received the proceeds from the sale into her RBS account, she transferred £65,000 to her granddaughter. This money was used towards a property purchase.

In July 2020, Ms M went into branch and said that she'd been scammed and felt pressurised into making payments to help her granddaughter buy a flat. The branch staff were concerned about what Ms M said and immediately contacted the Police.

On the same day, RBS placed a restriction on Ms M's account preventing her from making large transactions without speaking to the bank first.

On 3 August 2020, Ms M appointed Mr M as her power of attorney. RBS has provided evidence to show the power of attorney was registered with the bank on 26 January 2021.

In October 2020, Ms M went into branch and explained she wants to give Mr M money to buy a van. RBS told Ms M it would only make the payment if she provided evidence to support the purchase.

On 21 November 2020, Mr M called RBS and explained he was unhappy about needing to provide proof of the van. Ms M said she wanted to close her account.

Then Ms M went into branch alone to try and send Mr M the money for the van. Ms M was told that she needed to return with Mr M, the power of attorney document and the evidence to support the purchase.

On 23 November 2020, Ms M went back to branch and explained she wanted to close her account as she was unhappy she'd not been allowed to make the payment.

Later that day, Mr M spoke to RBS on the phone. The bank said if Ms M wanted to close the account, she needed to open a new account elsewhere and then switch the funds out. RBS told Mr M that it needed to see an invoice for the van because it wanted to protect Ms M from losing any more money. Mr M was frustrated this process was not in place when Ms M

transferred money to her granddaughter. RBS was adamant it wasn't withholding Ms M's money and that it was acting to protect her. Mr M explained that buying the vehicle was important so that Ms M could visit other places to see properties. He said the bank's process was unworkable. The bank's advisor maintained that Ms M and Mr M needed to go into branch with documentation. Mr M explained that Ms M had already been into branch. Mr M said he didn't want to go into branch and lose his cool. The bank's advisor was concerned about the phone call and took the decision to call the Police.

On 1 December 2020, Mr M made a complaint. He explained he was unhappy that Ms M had been into branch twice and was not allowed to withdraw her money. He was unhappy that the bank had sent the Police to Ms M's address.

Mr M continued to contact RBS to find out what's going on. He appointed lawyers who contacted the bank to find out more, but the bank did not reply. He said Ms M's life plans had been held up for months and no explanation had been given for why. RBS maintained that Ms M and Mr M needed to attend a branch with appropriate evidence to support any payments she wished to make.

By January 2021, Ms M had opened a new account with a different bank and tried to switch her funds over. But the payment was blocked and the account restrictions remained in place. Mr M wanted RBS to pay compensation for the impact the situation was having on Ms M as she was unable to buy a new home without access to her funds.

Then Mr M contacted this service. He explained that RBS had blocked Ms M's account since she had reported fraud and restricted her withdrawals. He said this had resulted in Ms M missing out on the opportunity to buy a new property and that she has been left feeling like she has done something wrong or is in some way unable to cope, which is not true. He added that RBS had told his MP that the account restrictions had been lifted but this is not the case.

The account remained restricted until 13 July 2021. Ms M went into branch on 14 July 2021 to transfer funds but was unable to do so. It was 15 July 2021 when the transfer was ultimately made.

Mr M pointed out the transfer was meant to be authorised a long time ago. He said the bank had colluded with the Police and social services to put Ms M into care and to put him into a mental health hospital. He explained they had lost control over their lives and felt like they had been treated as criminals. He said he was completely in the dark about what happened and why and wanted to know when and why Police and social services were contacted. Mr M explained the fear, anxiety and trauma this situation had caused them both. He explained they had lost a lot of money that had been spent preparing to move as well as incurring costs. He said RBS's actions prevented Ms M being able to pay for a lawyer to take the dispute about the money that was sent to her granddaughter to court.

Our Investigator considered the matter. He didn't think it was unreasonable for RBS to put measures in place to safeguard Ms M's account given the allegation she had made about being scammed out of £65,000 by a family member.

But he didn't think RBS had clearly explained what Ms M needed to do in order to make payments. He also thought it was inappropriate and unnecessary to RBS to have called the Police in November 2020, although he did consider the conversation to be heated. He thought that the situation overall had impacted Ms M and recommended that the bank should pay compensation to her to acknowledge this.

He recognised that the situation would have impacted Mr M too, but explained he was unable to recommend any specific compensation for the distress and inconvenience that he had suffered as a result of this matter because he is not the complainant.

He suggested that RBS should pay £750 compensation to Mrs M as well as £50 to compensate her for any loss incurred by the marginal movement in the exchange rate between 14 and 15 July 2021.

RBS agreed to this and made the payment. Mr M did not accept this position. He was very disappointed and did not think the compensation proposed went anywhere near far enough. He wanted to know exactly when social services were involved and why account restrictions were left in place for months. He said it wasn't fair of the bank to make Ms M prove what she was using her own money for. Our Investigator responded to say that whilst the restriction wasn't explained well and the communication from the bank was poor, Ms M could've done what she wanted to if she'd provided evidence to support the transactions that she wanted to make.

Mr M explained that additional costs had been incurred because of the account block, such as storage costs and the costs of obtaining new pet passports that were not used in time. Our Investigator invited Mr M to provide further details of these losses so he could consider them, but Mr M did not provide anything further, despite being given additional time to do so.

Ultimately, no agreement could be reached so the complaint was referred to me.

### **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.

First, I'm very aware that I've summarised what has been said in this complaint in far less detail than what has been provided 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 a fair outcome.

When making this complaint, Mr M has referred to the actions taken by social services and the Police. But as part of my decision, I am only able to make findings on whether RBS has acted correctly. I am unable to comment specifically on the validity of actions carried out by other organisations. I've considered RBS' actions when reviewing Ms M's account as that is the crux of the complaint that I am able to consider.

### *Reviewing Ms M's account*

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice ; and where appropriate, what I consider to be good industry practice at the time.

In broad terms, the starting position in law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account.

But that's not the end of the story. Regulated firms like RBS are also required to conduct their *'business with due skill, care and diligence'* (FCA Principle for Businesses 2) and to *'pay due regard to the interests of its customers'* (Principle 6).

And as a matter of good industry practice at the time, I consider firms should also have taken proactive steps to:

- Monitor accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams
- Identify and assist vulnerable consumers and consumers in vulnerable circumstances, including those at risk of financial exploitation (something recognised by the FCA in recent years and by the British Bankers Association's February 2016 report *'improving outcomes for customers in vulnerable circumstances'*).
- Look to identify and help prevent transactions – particularly unusual or out of character transactions – that could involve fraud or be the result of a scam (something also recognised by the British Institute of Customer Protection's October 2017 *'Protecting Customers from Financial harm as a result of fraud or financial abuse – Code of Practice'*, which a number of banks and trade associations were involved in the development of); and
- in relation to branch transactions – follow the Banking Protocol when available.

The Banking Protocol is a multi-agency initiative between the Police, financial sector organisations (including banks, building societies and the post office), and Trading Standards *'aimed at identifying customers who are in the process of being defrauded and implementing safeguarding procedures to prevent their repeat victimisation and further loss of funds.'*

The general principles of the Banking Protocol – for example to look out for unusual and out of character transactions, to ask questions and to escalate internally when in doubt, were long established as good practice in July 2020 when Ms M attended the branch to report a potential fraud.

All of this means that there are circumstances, irrespective of the payment channel used, where a bank should, in my opinion, fairly and reasonably take additional steps, or make additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm.

Having set out the relevant considerations, I need to decide whether RBS acted fairly and reasonably when it applied restrictions to Ms M's account.

I can appreciate that this was a difficult situation for Ms M. From her perspective, the payments she wanted to make were for genuine reasons. But she's also told the bank that she'd fallen victim to a scam. RBS had a duty to protect its customer's money. When Ms M reported the potential scam and its surrounding circumstances, the bank was very concerned. I don't think it was unreasonable for RBS to want to take steps to satisfy itself that Ms M wasn't at risk of financial harm.

RBS, like all UK banks, are strictly regulated and must take certain actions in order to meet their legal and regulatory obligations. These obligations are ongoing, so do not only pertain to when an account is opened. They can broadly be summarised as a responsibility to protect persons from financial harm, and to prevent and detect financial crime. To comply

with its obligations RBS may need to review an account and/or restrict its customers' access to accounts and funds held within them. Based on what I've seen, I'm satisfied RBS were acting in line with these obligations when taking the decision to review Ms M's account and put in place account restrictions.

Ms M is in a demographic of society that the financial regulator considers to be 'older old'. Whilst Ms M's age in and of itself does not make her automatically vulnerable, I can see why it would have been a consideration for the bank. From what RBS knew at the time, Ms M had recently been in hospital after suffering a bad fall and the relationship with her daughter and granddaughter appeared to have broken down. Mr M has explained that his gran was effectively homeless, and Ms M had told the bank that she had been pressured into making large payments that she didn't really want to make. Against this backdrop, I can see why RBS was concerned for her welfare. To comply with its legal and regulatory obligations, RBS needed to be sure that Ms M was aware of what was happening on her account.

Taking everything RBS knew all together, there were indications that Ms M could be in a vulnerable position. It's clear the bank's staff were concerned on more than one occasion. It is because of this concern for her and want to protect her interests that it said Ms M could only make larger payments if she provided some supporting evidence to confirm what the money was to be used for and that the payment was in line her wishes. I appreciate it would have been frustrating for Ms M to not be able to access her money as freely as she'd usually be able to or would have liked to. But I don't think RBS was acting unreasonably by putting measures in place such as the account restrictions that were intended to protect Ms M.

I do appreciate there is a delicate balance to be struck. Ms M is free to use her own money as she wishes and when accounts are subject to restrictions, that inevitably causes some degree of inconvenience. It's clear that emotions ran high on both sides and I don't doubt this was a stressful experience for everyone involved.

I understand that Mr M would like RBS to give a full explanation for the reasons why it decided to review Ms M's account, exactly what steps it took and what information led it to act in the way it did. He has referred to the bank unfairly involving the Police and social services. But RBS doesn't have to disclose what triggers it to review a customer's account or the reasons behind an ongoing account restriction, as much as Mr M and Ms M would like to know. So I can't say RBS has done anything wrong by not sharing this information and it is not appropriate for me to require it to do so.

I know Mr M is very concerned about all that has gone on. It's clear from what he's said that he feels personally targeted by the actions of the bank and other agencies that have been in contact with them. Whilst I appreciate Mr M's frustration and strength of feeling, it's important to point out that the only thing in question here at this service is whether RBS has done what it should have done. I don't think RBS acted unfairly or made a mistake by placing the restriction on Ms M's account and from what I've seen, I don't think RBS could have removed the restriction any sooner than it ultimately did.

RBS agreed with our Investigator's position that it could have handled the situation much better than it did. Even though by applying the account restriction RBS was acting in line with its regulatory obligations and in Ms M's best interests, RBS has accepted that it could have been clearer and given better information directly to Ms M about what she needed to do in order to make larger payments. I think the £750 compensation RBS has now paid to acknowledge the distress and inconvenience it caused to Ms M along with the £50 it awarded to compensate for the loss caused to the funds Ms M wanted to transfer due to a modest movement in exchange rates is fair.

I recognise that Mr M considers this compensation does not go far enough. But as the account in question is in Ms M's name, Mr M is not able to complain to us about this matter in his own right. He is authorised in law to represent Ms M. This means I am unable to make an award of compensation to acknowledge the distress, inconvenience and financial losses Mr M has described experiencing as a result of the impact of this matter.

### *Overall*

I know that Ms M and Mr M will be frustrated and upset with my decision. I recognise how strongly they feel about the situation. But based on the evidence I've seen, I consider RBS's actions to be proportionate in all the circumstances. As such, I cannot fairly require it to do anything more than it has already done.

### **My final decision**

I uphold this complaint, in so far as I agree that the compensation The Royal Bank of Scotland Plc has already paid is a fair and reasonable way to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 13 April 2023.

Claire Marsh  
**Ombudsman**