

The complaint

Mr B complains that The Royal Bank of Scotland Plc (“RBS”) failed to respond to letters from his solicitors. He says this affected his ability to challenge the misappropriation of his funds by a third party.

What happened

Mr B holds an account with RBS. In 2021, he paid funds from that account into a wallet he held with a third party which I’ll call B. He says that the funds were loaded to the wallet but were then fraudulently transferred to a separate account. He asked RBS to recover the money through a chargeback claim but RBS said a chargeback wasn’t possible. Mr B complained, but RBS said it hadn’t done anything wrong and maintained that it had no basis on which to pursue a refund under the chargeback rules.

Mr B then engaged solicitors, who wrote to RBS on three occasions during 2021. RBS didn’t respond to or acknowledge the letters. Mr B says that this prevented him from raising a complaint with this service about the chargeback issue and affected his ability to challenge the misappropriation of his funds. He raised a new complaint in 2022 about RBS’s failure to respond to the solicitors’ letters. That is the complaint being considered here.

RBS said it had no record of receiving the letters. It said the last contact it had with Mr B was its final response to the original complaint. It asked Mr B to provide evidence showing where the letters had been delivered.

Mr B provided tracking details. But RBS said it didn’t have the letters, so couldn’t respond to the points raised within them. It said that the PO Box number on the letters was wrong, meaning they were less likely to have been received at the correct office. There was also an issue over which team within RBS was dealing with the matter. Mr B’s solicitors had written to the Financial Health & Support Team. But RBS said it was the Fraud and Chargebacks Complaints team which was dealing with the matter.

Mr B wasn’t satisfied with RBS’s response and was unhappy about certain statements included in its final response letter. He referred the complaint to this service. He said the whole situation had caused him considerable distress and inconvenience. He would like RBS to pay his legal fees and reimburse the money he paid to B. He would also like it to apologise and pay him some compensation.

During the investigation by this service, RBS offered £50 as compensation for potentially failing to acknowledge the letters, which it said may have been lost in transit. It said that Mr B hadn’t raised the complaint until around nine months after the last letter had been sent, which had affected its ability to conduct a reasonable search for the letters or respond to them. Our Investigator thought that RBS’ offer was fair. But Mr B didn’t agree, so the complaint has been referred to me to review.

As our Investigator explained, I’m not making a decision about Mr B’s payments to B or the chargeback request. I’m only looking at the lack of response by RBS to the letters sent by Mr B’s solicitors.

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.

Mr B's solicitors wrote three letters to RBS – two in October 2021 and one in November 2021. The content of both October letters was the same, but they were sent to different addresses. The first letter was addressed to RBS but didn't specify a particular team. It was sent to a street address. The second letter was addressed to the Financial Health & Support Team of RBS and sent to a PO Box number. The November letter was also sent to the Financial Health & Support Team at the PO Box number. This letter was simply chasing a response to the October letter and enclosed a further copy of it. So, I find that three copies of the same letter were sent to RBS at two different addresses.

The PO box number on the letters was wrong. But I don't think that necessarily means they didn't arrive. RBS accepts this, but says it reduced the likelihood of them being received in the correct office. I think that's a fair comment. But Mr B has provided tracking information for these letters. There is no tracking information available for the first letter sent in October. But that doesn't mean it wasn't received.

RBS says it's the Fraud and Chargebacks Complaints Team which would have needed to deal with the letters. But I think it was reasonable that some were addressed to the Financial Health & Support Team. That's because Mr B's previous contact with RBS about the issue had been from that team. I note that the first letter from Mr B's solicitors wasn't addressed to any particular department. But I think it's reasonable to expect that it would be passed on to the relevant team once received by RBS.

I can understand that there might be a delay in responding while letters are passed on to the appropriate department. But the issue here is that there was no response at all to any of the letters.

Mr B wants an explanation of why RBS didn't respond. RBS says it has no record of receiving the letters, so that's why it didn't respond. I find it unlikely that none of the letters were received by RBS. But I don't doubt RBS when it says it has no record of them. It seems that for some reason the letters weren't actioned or logged successfully. I don't know the reason for that. But I can understand that it's very unsatisfactory from Mr B's point of view.

Mr B says that RBS's failure to respond to the letters affected his ability to bring the chargeback complaint to this service or challenge the misappropriation of his funds. I know Mr B feels strongly about this. But I'm afraid I don't think RBS's lack of response prevented him from pursuing the chargeback complaint or otherwise pursuing recovery of his money.

RBS's final response to the chargeback complaint made it clear that there was a time limit for referring the complaint to this service. The deadline was in October 2021 and the details have already been considered by this service and communicated to the parties under a separate reference. I find that RBS wouldn't have received the second or third letters from Mr B's solicitors before that deadline. The first letter would have been received very close to the deadline – if it was received - and I think it's unlikely Mr B would have received any reply in time, even if RBS had responded. In any event, Mr B could have referred the complaint to this service in addition to or instead of instructing solicitors. So, I don't think the lack of response by RBS prevented him from pursuing that complaint.

I haven't seen anything to suggest that RBS's lack of response prevented Mr B from pursuing other avenues either. So I don't find that it stopped him from challenging the misappropriation of funds which he alleges.

In any event, RBS has said that it will now respond to the letters. Mr B said he wanted a full and detailed response to them as part of the resolution to this complaint. I think that's reasonable, as the issue here is the lack of response to the letters.

Copies of the letters have been sent to RBS and it has confirmed receipt. It says that the Fraud and Chargebacks Complaints Team remains the most suitable department to respond. RBS has confirmed that the letters are being looked at as a complaint, which is currently being investigated and a response is expected imminently. RBS has agreed to send the response to Mr B direct. I think that's reasonable, so I'm not going to ask RBS to do any more on that front.

Mr B raised concerns about some of the wording in RBS's response to his complaint. I note that RBS apologised for the distress this caused and said that Mr B's comments had been passed to the relevant department so that the wording could be reviewed. I think that's reasonable, so I'm not going to ask RBS to do anything more about that.

But I think RBS needs to pay some compensation to Mr B. As I said above, I think it's likely that some - if not all - of the letters were received within RBS. So I think something went wrong because they weren't acknowledged. That was distressing for Mr B and put him to some inconvenience. But I think that has to be balanced against the fact that Mr B didn't raise the issue with RBS until August 2022. I think that suggests the impact of the non-response was not severe. The long timescale also affected RBS's ability to search for the letters or request further copies and provide a timely response.

In the circumstances, I think £50 would be a fair amount of compensation. RBS has already offered this, but I don't think it has been paid so far. So, I'm going to direct RBS to do so.

I'm sorry to disappoint Mr B, and I sympathise with his situation. But, as I've explained, I'm not looking at the payments to B here. So I'm not going to ask RBS to refund them or pay Mr B's legal fees for pursuing recovery of those sums.

My final decision

The Royal Bank of Scotland Plc has already made an offer of £50 to settle this complaint and I think that's fair in all the circumstances. So my final decision is that The Royal Bank of Scotland Plc should pay £50 to Mr B.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 29 March 2023.

Katy Kidd
Ombudsman