

The complaint

Mr R complains about The Royal Bank of Scotland Plc's ("RBS's") approach to a chargeback he raised with them.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my decision.

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 think the evidence I have suggests Mr R hasn't been treated fairly here, and I'm asking RBS to take some action to put things right for him.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

When something goes wrong and the payment was made with a credit card, as is the case here, it might be possible for the business to raise a chargeback claim.

The chargeback scheme isn't administered by RBS, it's administered by Mastercard, and they set the rules. RBS didn't have to submit a chargeback claim but I'd think it good practice for them to do so where the right exists and there is a prospect of success. I think RBS were fair to raise the chargeback here and to take it to arbitration in an attempt to resolve things for Mr R.

Mr R says he was advised his chargeback claim had been successful and that RBS refunded the transaction fee to his credit card account and allowed him to move it to his current account – where he spent it, unaware there may ever be a need for him to pay it back.

He's provided evidence that he called RBS on 6 May 2022 and whilst RBS initially disputed whether a call had been made, they now accept one was received but have suggested it was to an automated system and that Mr R was unlikely to have spoken to anybody and have been given advice his chargeback had been successful.

On balance, I think it is likely Mr R was either led to believe the chargeback had been settled in his favour, or at the very least that the potential for the chargeback to be re-debited wasn't explained to him. I say that because I don't think it's likely RBS would have moved a sum, of

several thousand pounds, that was still in dispute, to his current account without explaining the credit may be reversed. And I've seen no evidence that was communicated to Mr R. I've also not been provided with copies of any communication from RBS to Mr R explaining the chargeback process, and the potential for the credit to be reversed. I can also see Mr R's actions after the chargeback was moved into his current account were consistent with him thinking the money wouldn't be reversed – as he quickly spent it.

Putting things right

It wouldn't be fair to ask RBS to allow Mr R to keep the refunded transaction. The chargeback wasn't successful, and Mr R has had the benefit of that money.

But it is fair to consider the impact of, and to compensate Mr R for, what I think were RBS's failings in handling the chargeback properly.

I think Mr R has spent money he wouldn't otherwise have spent and that when the £3,200 is claimed back by RBS he will likely experience some unanticipated financial difficulty paying it. That's not to say that I've seen sufficient evidence to suggest Mr R is struggling financially, it's simply to explain that he will need to manage his finances to cater for an unexpected, and quite significant bill. It's also been necessary for Mr R to escalate a complaint to this Service when I think it could have been resolved earlier. When a payment is made with a credit card, as is the case here, it might also be possible for a consumer to make a claim under section 75 of the Consumer Credit Act (1974). That says that in certain circumstances, the borrower has the same right to claim against the credit provider as against the supplier if there's either a breach of contract or misrepresentation by the supplier. RBS haven't considered a section 75 claim and I think they should have. Considering all of the circumstances, I think RBS should pay Mr R £500 to compensate him for the distress and inconvenience caused.

Our investigator suggested that RBS shouldn't charge interest on the £3,200 when it was recharged to Mr R's account. I asked RBS how they would do that as the account had now been closed. They explained that it may still be possible to charge it to the credit card as the account remained active for a time, and that alternatively they could charge it to another account that Mr R holds with them. I would therefore agree with our investigator that RBS shouldn't charge interest on the £3,200 when it is recharged to Mr R's account/s.

I also asked RBS why they hadn't considered a claim under section 75 of the Consumer Credit Act (1974). They explained that on the evidence they had they thought it unlikely such a claim would succeed, but that they'd be happy to consider such a claim if Mr R reached out to them. That is something Mr R may wish to consider if he feels he can provide adequate evidence there has been a misrepresentation or a breach of contract.

My final decision

For the reasons I've given above, I uphold this complaint and tell The Royal Bank of Scotland Plc to:

- Pay Mr R £500 to compensate him for the distress and inconvenience he's been caused.
- Not charge interest on the £3,200 when it is recharged to Mr R's account.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 27 July 2023.

Phillip McMahon
Ombudsman