

The complaint

Mr I has complained about how Bank of Scotland plc (BOS) handled his chargeback claim.

What happened

I issued a provisional decision about this complaint on 18 December 2024, which set out the background to this complaint:

“On 13 September 2023, Mr I purchased goods worth £63.52 from an online retailer (the “merchant”) using his current account. Mr I said he didn’t receive the items he ordered, so he disputed the payment he’d made to the merchant with BOS.

On 25 September 2023, BOS credited Mr I’s account temporarily with £63.52.

On 2 October 2023, the merchant refunded £9.39 to Mr I’s account for this order and it refunded another £44.78 for another order on 3 October 2023. On 9 October 2023, BOS told Mr I it would take back £9.39 and £44.78 within 10 working days, and Mr I’s account could go overdrawn if there wasn’t enough money to cover the payments.

Mr I still wanted to attempt a chargeback, and BOS asked Mr I for a breakdown of what he’d ordered and correspondence with the merchant on 21 October 2023. But on 15 November 2023, Mr I indicated he no longer wanted BOS to attempt a chargeback.

On 22 November 2023, BOS removed £63.52 from Mr I’s account. This caused Mr I’s account to go into an unauthorised overdraft by £3.49. Mr I called BOS to complain, and says he was on the phone for over two hours. Mr I’s account remained overdrawn for two days, when his personal independence payment was credited to his account.

On 27 November 2023, BOS emailed Mr I about his £63.52 chargeback. It asked Mr I for a full description of the goods he ordered and evidence they were delivered to an incorrect address. BOS asked for the information within the next two weeks, or it would assume he no longer wanted to dispute the payment.

On 28 November 2023, Mr I spoke to BOS. Mr I explained this matter had significantly impacted his mental health. Mr I pointed out BOS had taken a different amount to what it said it would do. Mr I said he had to seek legal advice from his father, and BOS confirmed it would not pay those costs. Mr I made a request for a copy of all his communications with BOS.

Mr I spoke to BOS twice on 7 December 2023. He asked about BOS’s emails, which said it might re-debit the £63.52 refund it had already taken. Mr I was also told what information was needed to make a chargeback claim. BOS also issued its final response to Mr I’s complaint on 7 December 2023. BOS told Mr I he had not provided the information it had asked him for. BOS apologised for telling Mr I that it would re-debit the £63.52 if he didn’t respond – it had already taken the money back on 21 November 2023. BOS also apologised

it didn't make a call back it had promised. To apologise, BOS said it would pay Mr I £30.

Unhappy with this response, Mr I referred his complaint to our service. Mr I says he was extremely worried and gambled £200 in an effort to recoup the funds the bank took in error. Mr I says he has ended up on more medication, missed out on activities he couldn't pay for and borrowed money from family.

One of our Investigators reviewed Mr I's complaint and thought it should be upheld, in part. Our Investigator thought Mr I hadn't provided the information needed to make a successful chargeback. But our Investigator said BOS's customer service fell short – it didn't properly explain the chargeback refund, so it should pay Mr I an additional £70, bringing the total compensation payable to £100.

BOS accepted our Investigator's recommendation. Mr I said £100 compensation did not reflect the impact on his mental health or considerable amount of time and effort he has spent to sort things out. So, this has come to me for a decision."

I then set out my provisional decision as follows:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I have read and considered the evidence submitted by both Mr I and BOS but I'll address only the matters I consider to be central to this complaint. I hope Mr I understands this simply reflects the informal nature of the Financial Ombudsman Service.

Here, it is not entirely clear whether BOS submitted a chargeback – it doesn't appear that they did despite giving Mr I a temporary refund. So, I have considered whether any failure to submit a chargeback makes a difference here, and to do that I need to consider whether a chargeback claim would likely have been successful if submitted. I'll then move on to address the level of service BOS provided.

Should BOS have submitted a chargeback claim on Mr I's behalf?

A chargeback claim is decided on the relevant card scheme's rules, rather than on the merits of the dispute between Mr I and the merchant. Although it is often good practice for a card provider (here, BOS) to attempt a chargeback where there is a reasonable prospect of success, a chargeback is not a legal right. It is also important to explain there's no guarantee the card provider will be able to recover Mr I's money from the merchant by making a chargeback claim.

Here, the rules are set out by VISA and BOS has no power to change them. Here, the most likely claim that could have been made would be for merchandise not received, so I have considered the relevant VISA rule. For a successful claim, BOS would have needed to submit a detailed description of the goods purchased – I haven't seen that this was provided to BOS. BOS would also have needed to submit evidence that the goods were not received at the agreed location and evidence Mr I had attempted to resolve things with the merchant. I've seen a screenshot that Mr I emailed the delivery company, but not confirmation of where the package was delivered or the response from either the merchant or the delivery company. Without this information, I don't think it's likely a chargeback would have been successful.

I understand Mr I didn't respond to BOS's request for information on 15 November 2024 as, at that point, he'd received a refund from BOS and a refund for a different order from the merchant. But by the time of BOS's emails of 22 and 27 November 2024, Mr S's chargeback

refund of £63.52 had been re-debited and he was without the money. I think this should have prompted Mr I to provide the information BOS asked for if he wanted to pursue a chargeback claim.

I've listened to Mr I's calls with BOS on 7 December 2023. In the second call with BOS's complaints handler, Mr I asked what BOS needed to see from him. BOS explained it needed a detailed description of what happened and the goods Mr I had purchased. Mr I said he really didn't want to dispute the payment anymore as it was just a nightmare. Overall, I think BOS was clear about the information it needed to make a chargeback claim. And as Mr I said he didn't want to continue to dispute the claim, I don't think any failure to pursue the claim at the date of its final response on 7 December 2023 makes a difference because I don't think it's likely a chargeback would have been successful.

BOS's handing of the claim

Mr I first disputed his transaction for £63.52 in September 2023, and I think BOS made reasonable attempts to progress his chargeback claim by sending him regular requests for information. Mr I chose not to provide the information, so I don't think I can reasonably hold BOS accountable for the overall time taken before its final response of 7 December 2023.

BOS should have taken the £63.53 within ten working days of 9 October 2023 but I think it appears BOS waited until after Mr I indicated he didn't want to pursue the chargeback on 15 November 2023.

Instead, BOS's email of 9 October 2023 said it would take back the two payments (which totalled £54.17) within ten working days. BOS were aware Mr I is disabled and has severe mental health problems, so I think it should have taken extra care to ensure his claim was handled properly. So, I think BOS should have explained that it would take £63.52, as that was the value of Mr I's chargeback claim. When BOS went to take the money out, it was outside of the time frame it had given Mr I, it took more than it said it would and the amount took Mr I overdrawn. In the circumstances, I think BOS should have taken greater care to communicate with Mr I, given his vulnerabilities, about taking the money back. If it had told Mr I it would take back £63.52, he could have planned to ensure his account didn't go overdrawn.

BOS took more than it said it would but having reviewed Mr I's bank statements, it doesn't appear he incurred any overdraft charges or interest, or any charges for returned payments as a result of going overdrawn. But if he did, BOS should confirm this in response to my provisional decision and refund any interest or charges caused as a result of Mr I being overdrawn between 21 and 23 November 2023.

I think BOS caused Mr I distress when his account went overdrawn. Mr I had stressed the impact this has had on his mental health and says he spent over two hours trying to sort this out.

BOS also caused additional worry in its emails to Mr B when it said it may take back any money it had already paid Mr I. BOS didn't clarify it wouldn't re-debit the £63.52 until 7 December 2023. Mr I was understandably worried. Mr I also didn't receive an email he was promised by BOS's complaints manager. So, I can understand why Mr I is unhappy about the customer service he's received here.

Mr I has said he gambled to try get the money back and missed out on activities. Mr I says he wouldn't accept £1,000 compensation. Mr I may find it helpful to review our website, which has examples of the level of compensation we award in different scenarios:

<https://www.financial-ombudsman.org.uk/businesses/resolving-complaint/understanding-compensation/compensation-for-distress-or-inconvenience>

Here, the error in telling Mr I it would debit £9.35 more than it said it would, which caused him to go overdrawn for two days. And I think BOS caused further avoidable distress by indicating it may take back £63.52 again in its emails. I think it's reasonably foreseeable, given what BOS knew about Mr I, that this would cause him a considerable some distress but I don't think Mr I gambling or missing out on activities were reasonably foreseeable consequences of BOS taking £9.35 more than it said it would. Having considered Mr I's testimony about the impact this has had on him, I think £250 total compensation fairly recognises the impact of BOS's errors."

Bank of Scotland accepted my provisional decision, but Mr I made further comments. In summary, Mr I said he replied to each email BOS sent him asking for further information. Mr I also said he spent over four hours on the phone to BOS and reiterated the impact this matter has had on his health.

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 I said he did email BOS in response to its requests for information. And I should clarify I was aware Mr B had responded to BOS emails, but these emails do not appear to have included the information BOS needed to raise a chargeback. After receiving Mr I's response to my provisional decision, I contacted BOS to check again if they had ever received a copy of the breakdown it needed. BOS said it could not locate a copy of this anywhere on its file. As I said in my provisional decision, for a successful claim, BOS would have needed to submit a detailed description of the goods purchased – I still haven't seen that this was provided to BOS – Mr I has not provided a copy of any email which shows he sent this information to BOS.. The email of 15 November 2023 doesn't appear to provide confirmation that the parcel was not delivered – it is an acknowledgement Mr I had contacted the delivery company to say the parcel was not delivered. Without this information, I don't think it's likely a chargeback would have been successful. For the reasons explained in my provisional decision, I remain of the view that any failure to pursue the claim at the date of its final response on 7 December 2023 makes a difference because I don't think it's likely a chargeback would have been successful.

Mr I has provided screenshots that show he has spent around for hours on the phone to BOS trying to sort everything out, alongside the impact this has had on him. And I'd like to reassure Mr I that I was aware he had spent a lot of time trying to sort things out – particularly when he was concerned BOS may re-debit funds from his account. And I considered the impact this matter has had on Mr I's health prior to issuing my provisional decision. Having considered the evidence carefully, my provisional decision (that £250 total compensation reasonably reflects the distress and inconvenience caused by BOS's actions) remains unchanged for the reasons set out above.

Putting things right

For the reasons explained above, Bank of Scotland plc should pay Mr I £250 compensation, in total. If BOS has already paid Mr I the £30 awarded in its final response of 7 December 2023, only a further £220 is payable.

My final decision

For the reasons explained above, I uphold this complaint and require Bank of Scotland plc (BOS) to do what I have set out above,

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 5 March 2025.

Victoria Blackwood
Ombudsman