

The complaint

Mr C and Mrs C complain that The Royal Bank of Scotland Plc (RBS) has not located his safe deposit box, for which they have been charged up until 2010.

What happened

I sent the parties a provisional decision in June 2024, in which I set out the following background information to the complaint and my provisional findings, as follows:

'Mr C and Mrs C held a safe custody box with RBS since 1976 or 1977 at a branch which has since closed. They said they made payments to RBS for the box until 2010. They contacted RBS to find out where the box and contents are, but RBS was unable to locate their box and asked them to provide evidence of the charges for the box.'

Mr C provided some information but said RBS didn't respond to this and they complained to RBS. RBS responded that it has carried out searches based on the individual customer numbers as well as the account details provided, but hadn't located any record of a safe custody item being held for them.

RBS asked Mr C and Mrs C to provide any evidence such as receipts of any safe custody deposits or charges, and it would investigate further. RBS's 'Safe Custody Team' checked for Mr C and Mrs C's box but said 'that there are no records for this customer in regards to a safe custody item currently being held'. RBS added that it is unable to investigate the payments taken in respect of the box as the customers state that these stopped in 2010. It said this would seem to indicate that it doesn't hold anything for Mr C and Mrs C.

Mr C and Mrs C weren't satisfied with this response and referred their complaint to our service. They advised that the safety deposit box contained valuable antique jewellery given to them as a wedding present in 1976 and they understood that the items were so valuable that they shouldn't keep the items in their home but to safeguard them in a safe deposit box and withdraw the items for use on special occasions.

Our investigator asked RBS to comment Mr C and Mrs C's statements showing payments for a safe custody box. And provide evidence of its process regarding safe deposit boxes and its register of movements for the box. The investigator said RBS failed to respond and she recommended the complaint be upheld in part.

RBS made further checks and with Mrs C's recollection of the box. However, it responded that it is, 'unable to locate the item and appropriate records to evidence withdrawal or if we are still holding the item'. And following further enquiries it said, 'Our team have done an extensive search of our records and can't locate the item and believe it has been picked up'.

The investigator said Mr C and Mrs C's bank statements showed several payments for a safe deposit box and she was persuaded they did have a box RBS. She said RBS's failure to challenge the evidence persuaded her that it has lost the box. She requested evidence to support the value of the lost items for RBS to consider. She recommended RBS pay Mr C and Mrs C £250 compensation for the trouble and upset caused in losing their valuables.

Mr C thanked the investigator for trying to get more information from RBS, but he thought the bank were choosing not to make its records available and he didn't think the compensation was adequate for what they had been through.

Mr C didn't accept that RBS had lost the box and suspected an employee may have stolen the contents and removed traces of its location. He said the easiest outcome for RBS would be to pay some tiny compensation, but if this was substantial, it might prove an incentive to locate the box. Mr C said there were no photographs of the items in the box and no insurance to cover them for loss etc. Mrs C provided a statement from the son of the donor of the jewellery giving a very brief description of the items and approximate value.

Subsequent to the investigator's further questioning RBS made further checks and with Mrs C's recollection of the box. However, it responded that it is, 'unable to locate the item and appropriate records to evidence withdrawal or if we are still holding the item'. And following further enquiries it said, 'Our team have done an extensive search of our records and can't locate the item and believe it has been picked up'.

What I've provisionally decided – and why

This complaint has been referred to me as an ombudsman to decide. I was sorry to learn of Mrs C's frustration at not being able to obtain her safe deposit box from RBS. RBS said it has not been able to evidence any safe custody involvement on Mrs C's account.

Mr C said the safe deposit box is somewhere, as a physical object, stored in a controlled environment with records dating back to when it was first taken out. He feels he has had to do the investigating about this, and RBS has been content to respond that it holds no records.

Where the parties disagree about the evidence of an item that hasn't been found, we have to decide the outcome to a complaint on the balance of probabilities. In other words what we think is most likely to have happened and what appears to be fair and reasonable as an outcome based on the available evidence.

The evidence here is scant. I have reviewed the statements from Mr C and Mrs C's account. These are for the years 1985 to 1989, 1991 and 1993 to 1996, and 2005 to 2007 and these include charges for a safe deposit box. I haven't seen any account statements after 2007 and so that is the last year I have seen with evidence of a payment. I would have thought that if the box was maintained by RBS for Mr C and Mrs C beyond 2007 there would be evidence of charges post-dating the 2007 bank statement.

Mrs C said she recalled most of the contents, but no photos were taken and no insurance policy was put in place to cover the items. I haven't seen a response from Mr C to the investigator's question, 'what date did you last access the box?', but he said he wouldn't have a receipt or a number for the box after such a long period of time. Mrs C had a vague recollection of the box being metal and slightly larger than a large shoebox, but said she had no recollection of the colour of the box as she 'only saw it twice more than 20 years ago'.

I've considered the statement Mrs C provided from a relative who attended their wedding in 1976. This contains only very limited details of the jewellery, and of course doesn't mean the same items were placed in the safe deposit box, but it does indicate there were valuable items to protect at the time when Mr C and Mrs C say they took the safe deposit box.

I have considered RBS's statements that it is unable to investigate the payments taken for the box as Mr C and Mrs C say these stopped in 2010. And that it believes the box has been picked up. RBS also said it can't open every box to check for Mr C and Mrs C's box as it has no way of verifying that the contents would belong to the customer without the information it has requested about the contents. It said that it holds thousands of boxes and so this is not possible.

It is correct for RBS to say that there is no account statement evidence of Mr C and Mrs C having a safe custody box once their payments stopped in 2010 and unfortunately there's no receipt for the deposit box. The payments stopping by at least 2010 would seem to indicate that RBS doesn't still hold anything for Mr C and Mrs C. And so it follows that it would not be

fair or reasonable for me to require RBS to pay an unquantifiable amount in compensation for the loss of the largely unidentified contents of the box.

Mr C and Mrs C say that if the RBS custody team suggest that the box has been picked up, it was given to an unauthorised person without proof of ownership, and this would be fraudulent and should be investigated. Unfortunately there is no information on which to base an investigation and not enough information to support RBS's conjecture about the box having been 'picked up'.

Having said all this, Mr C and Mrs C have provided some evidence of the box's existence and I don't think it is unreasonable for them to expect RBS to do more than just say it has no records. The relationship between a customer and bank for a safe deposit box is likely to be long-lasting and. RBS has charged Mr C and Mrs C for a service over many years and ought reasonably to have recorded and maintained a record of what became of their safe deposit box.

I realise that RBS has completed a search of ledgers and paperwork but hasn't located any information relating to Mr C and Mrs C's box. And that there is now only one site remaining holding safe custody boxes. I realise it's not possible to open the thousands of boxes it holds, but presumably most of these are identifiable to owners and so are ruled out.

In response to this provisional decision, RBS needs to say when the branch in question was decommissioned (Mr C says it was around 2018). What is its protocol for the removal of safe deposit boxes from decommissioned branches, and where the boxes from the branch in question were transferred to when it closed. Can these boxes be identified?

RBS also needs to state whether or not I am correct to say that only a very small number of safe deposit boxes are not attributable to owners, and that these are worth examining in any event.

From RBS's records I have seen that an internal message was sent on 25 January 2024 that said, 'are you able to request a TART report for the customers account as well? Would just be good to get absolute clarity on when the charges ceased and whether the last charge was a full or partial fee'. I think RBS should follow up on this and let us know the outcome.

I would also like Mr C to say when he last visited the safe deposit box and provide bank statements from 2007 until when payment for the box stopped.

As it stands at the moment, and subject to any further information that I receive in response to this provisional decision, I don't think it's good enough for RBS to say it can't find any records about what has become of Mr C and Mrs C's safe deposit box or any records pertaining to the box. If this remains the case I am currently minded to uphold the complaint in part and require RBS to pay Mr C and Mrs C a total of £1,000 compensation (an increase of £750) for the disappointment of their loss and the inconvenience which they have been put to in pursuing the location of their safe deposit box.'

My provisional decision and the parties' responses

I provisionally decided to uphold the complaint in part. I intended to require RBS to pay Mr C and Mrs C the compensation set out, but not to require RBS to pay compensation for the possible contents of their safe deposit box.

Mr C responded that he had been told that RBS stopped charging for safe custody boxes around 2010, but this wasn't put in writing. He said the additional compensation I had put forward, 'is of course, totally unacceptable and RBS's accusation, without any evidence, that the box had been picked up, is quite outrageous. The fees alone over that period, allowing for inflation, exceed that figure!'

Mr C said if there are a relatively few undocumented boxes from the branch where their box was located, then it shouldn't be hard to open them, or is RBS trying to avoid responsibility in order to minimise its losses.

Mrs C agreed with Mr C on all points. She said they require definitive answers as to the location of all boxes moved from the branch in question, and if RBS can't open undocumented boxes, they will have no option but to start legal proceedings. She said the accusation that the box was picked up is not only untrue but lacking proof as they had not signed for removal of the box or its contents. Mrs C said the compensation I suggested is not only absurd, but doesn't even cover the cost of maintaining the security for all those years.

RBS said it is no longer able to get statements pre-2010. RBS said it had conducted searches as per the previous emails and considers that the box would have been collected, but cannot evidence this due to the passage of time.

RBS said Mr C stated his item was lodged at the branch, and recalled this branch closed in 2018. RBS said, 'local knowledge suggests that safe custody was moved out of this branch pre 2011 and was moved to another branch, which then closed in 2021 with items moving to a further branch. This further branch has checked the closing branch audit for the previous branch and confirmed that there are no items matching Mr C or Mrs C's names.

RBS confirmed that based on the description of the box and contents provided by Mr C and Mrs C it 'would not be able to narrow down the search, meaning that potentially a large number of boxes would need to be checked'. RBS said its historic account 'TART' report shows the last charge for the safe deposit box as 30 April 2007.

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 have looked again at the circumstances of this complaint again, and having done so I remain of the view that the resolution of this complaint should be as set out within my provisional decision.

Mr C and Mrs C said payments for the safe deposit box continued to at least 2010. The historic account records from RBS show the last payment to have been in April 2007. I would have thought that if the box was maintained by RBS beyond 2007 there would be evidence of charges. Unfortunately, there are no photos of the contents, only a vague description, no receipt for the box, and no insurance policy.

It's been a very long period of time since the last payment and Mr C and Mrs C's last visit to the box is an unknown period of time before that, Mrs C said she 'only saw it twice more than 20 years ago'. And so it's understandable that recollections are uncertain, but I have to have some evidence about the box and contents in order to uphold the main part of the complaint. The available evidence seems to indicate that RBS doesn't still hold anything for Mr C and Mrs C and hasn't for some time.

RBS said it can't open every box to check for Mr C and Mrs C's box as it has no way of verifying that the contents would belong to them without information it has requested. It said that it holds thousands of boxes and so this is not possible. Mr C and Mrs C say that if RBS suggests that the box has been picked up, it was given to an unauthorised person without proof of ownership, and this should be investigated. Unfortunately there is no information on which to base an investigation and not enough information to support RBS's conjecture about the box having been 'picked up'.

And so it follows that it would not be fair or reasonable for me to require RBS to pay an unquantifiable amount in compensation for the loss of the largely unidentified contents of Mr C and Mrs C's safe deposit box.

I understand that RBS doesn't have to maintain records for this length of time, but I remain of the view that it's not good enough to say it can't find any records about what has become of Mr C and Mrs C's safe deposit box. I think Mr C and Mrs C received poor service from

RBS in this respect and I uphold this part of the complaint and require RBS to pay Mr C and Mrs C further compensation of £750 for the disappointment of their loss and the inconvenience which they have been put to in pursuing the location of their box.

In response to Mr C and Mrs C's point about the safe deposit box fees exceeding the compensation I have suggested. I don't think even adding inflation the fees would exceed the total compensation of £1,000, but we don't have a complete picture.

I can see how unacceptable the award I have put forward is to Mr C and Mrs C but I have nothing on which to base any increase and I still think that it is fair. Mr C and Mrs C have mentioned the possibility of legal action against RBS. If they reject this decision all options remain open to them including legal action, but RBS would not be obliged to pay them the compensation I have stated here.

My final decision

For the reasons I have given it is my final decision that the complaint is upheld in part. If this final decision is accepted by Mr C and Mrs C, I require The Royal Bank of Scotland Plc to pay them total compensation of £1,000 (further compensation of £750) for their disappointment and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Mrs C to accept or reject my decision before 19 August 2024.

Andrew Fraser
Ombudsman