

The complaint

Mr A complains that RCI Bank UK Limited unfairly imposed changes to the terms and conditions of his Fixed-Term Investment Bonds. He complains about the communication of the changes and RCI's refusal to allow their rejection within the notice period, or to close his accounts.

What happened

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

'Mr A opened accounts with RCI in April and May of 2020 and received the 'Terms and conditions of our relationship'. He pointed out that Term 9.10. listed five reasons why the bank could change the terms and conditions of the accounts and Term 9.11. stated:

'We will give you at least 30 days' notice in writing before the change(s) take effect. You will be free to close your account at any time, and without charge, before any such changes come into force.'

On 14 December 2023 Mr A said he received an email from RCI entitled: 'Update to our Fixed Term Account T&Cs'. This set out proposed changes (with a link) and stated:

'These changes will come into effect for existing customers 30 days after the date on this email. By continuing to use our services after this date, you're agreeing to the updates.'

And links to a web page with terms and conditions effective from 12 December 2023, and a previous set, effective from 16 November 2021. Mr A said he was unaware of the 2021 set and doesn't think RCI notified him of this change. He said Term 9.11. was changed to read:

'If we make changes which don't negatively affect you, we'll let you know in writing with no notice; otherwise we'll give you at least 30 calendar days' written notice. During this notice period, you will be free to close your account without charge. At the end of this period, the amended agreement shall apply.'

Mr A said regardless of which terms and conditions apply, RCI served him with 30 days' notice and so acknowledges that the proposed changes negatively affect him. This includes making it more difficult for him to close the accounts for reasons of financial hardship if required. He said all versions allow a customer to make a complaint by phone, post or email.

Mr A called RCI on 14 December to reject the changes and close his accounts, but said this was treated as a claim for financial hardship, and he was advised to use a secure message system. In a further call Mr A said RCI wouldn't allow closure of Fixed-Term accounts regardless of the terms and conditions. And confirmed on 16 December, 'As this account is a Fixed Term Savings Account, as per our Terms and Conditions, funds cannot be withdrawn from this account until the maturity date..'. And again on 18 December that '..the changes to the Terms and Conditions are not considered to negatively impact the customer..'

Mr A complained to RCI, but said the call handler wouldn't engage with terms and conditions and the provision allowing him to reject proposed changes, and wouldn't take his complaint. Mr A said he wants compensation for the stress, inconvenience, lost time, and expenses of having to make his complaint and for denial of access to his money and loss of interest.

RCI responded to say the terms and conditions and changes were emailed to Mr A in 2021, and it enclosed copies of each term issued since his account opened. In relation to his wish to close his account due to the changes, it confirmed the changes as follows:

'Fixed Term Terms and Conditions. The document has been redesigned to make it easier and simpler to read and navigate. (this means we have made it easier for customer to refer to the documents). Separate T&C's for each account. Explanation of when and why we will perform source of funds and source of wealth checks and the type of evidence we will request. Further clarification of the rare cases when we will accept a request to close a Fixed Term Account early, and the evidence we will request.'

RCI said Mr A can't close the account as the changes don't affect the way it is maintained or have a negative impact for him, it only amended parts of agreements to make it more transparent. RCI said its agents tried to help and support Mr A on his calls. It described itself as an online operated bank, with correspondence predominantly sent by email.

Mr A wasn't happy with this response and referred his complaint to us. He disliked changes to the glossary; that the account has to be operated online, which he said is new, and onerous; when funds will be paid by RCI post-maturity. And terms that he said made it more difficult for a customer to close their account and other terms reflecting regulatory changes.

Our investigator recommended the complaint be upheld in part. He said Mr A disagreed with the changes and had the right to close his account without charge. However, the changes didn't negatively impact Mr A, and we can't consider hypothetical situations. He said RCI's advisers responded reasonably to Mr A's questions about the terms and conditions, but he was advised to write in to raise a complaint although this isn't in line with RCI's website.

The investigator said it's no bad thing for RCI to provide advanced notice of the changes to its terms, regardless of impact on the consumer. He could see why Mr A thought he could request account closure and the confusion caused by the notice being provided meant RCI should pay Mr A £100 for distress caused. But as the changes didn't negatively impact on Mr A RCI didn't need to agree to the closure of the account early without the relevant charges.

Mr A disagreed and requested an ombudsman review his complaint. He said there's a direct negative impact from the changes as they transfer RCI's risks such as making it harder to claim financial hardship and making payment timescales uncertain. And he would now have to pay for internet access. Mr A said RCI gave 30 days' notice of the changes so he should be allowed to close his accounts without reasons, but he has given examples of the effects.'

What I've provisionally decided – and why

'Mr A said the terms and conditions state that he may close Fixed-Term bonds early without any charge if he doesn't agree with changes put forward by RCI. However, when he tried to do this RCI initially refused stating a Fixed-Term bond can't be closed before the maturity date. Mr A's second closure request was rejected by RCI as it didn't think the changes would negatively impact Mr A. RCI told Mr A that he has been treated in line with its agreements regarding the operation of his accounts and the terms and conditions as amended.

RCI and Mr A are governed by the terms and conditions that applied at the time, and in relation to Mr A's closure request this appears to be the terms that were issued by RCI in November 2021.

Term 9.11. states: 'If we make changes which don't negatively affect you, we'll let you know in writing with no notice; otherwise, we'll give you at least 30 calendar days' written notice. During this notice period, you will be free to close your account without charge. At the end of this period, the amended agreement shall apply.'

Mr A said that as RCI served notice of the changes it considered them to have a negative effect as there is no provision for communicating positive changes in that way. Mr A has pointed out that the email from RCI announcing the changes stated that: 'These changes will come into effect for existing customers 30 days after the date on this email. By continuing to use our services after this date, you're agreeing to the updates.'

RCI has said it may give notice of all changes and it certainly doesn't consider the changes in question to be negative. Our investigator thought it reasonable for RCI to have this approach. But from Mr A's point of view I think it's fair for him to ask why RCI have said this when they served notice, if they were unwilling to allow customers to reject the changes.

Mr A said he isn't required to justify why the changes have a negative impact although he has given examples of this. RCI and our investigator don't accept its changes as negative, and RCI may consider that Mr A is using their impact to escape from the Fixed-Term bond because he is in financial difficulties. Mr A has denied this but is concerned that the changes will make it harder to claim financial hardship. The fact is that Mr A knows his circumstances best and he has set out some details of the disadvantages to him.

And so, although I can see that RCI thinks the changes to its terms and conditions are only about improving their clarity, and are positive, it has used the 30-day notice period to communicate them. Consequently, I think Mr A was entitled to view them in terms of their advantages or disadvantages to him and react as provided by Term 9.11 by closing his account.

The Financial Conduct Authority has set out some guidance for regulated businesses about how to ensure communications are effective and the information consumers are given is clear, fair and not misleading – and understood. If the above communication from RCI were to meet its stated intention, then I think it should have said Mr A has to demonstrate that the changes had a negative impact for him, or not given a notice period to customers.

Mr A wants to close both Fixed-Term bonds and have the funds transferred to his current account. I don't currently think RCI treated him fairly in stopping him from doing this and so I think it should now allow him to do so. He would also like compensation from RCI for denying him access to the funds on 14 December 2023 and for the additional distress and inconvenience it has caused him. I can see that his attempt to reject the changes and close his account was frustrated by RCI for different reasons, and because I think RCI was acting outside of the terms and conditions at the time I think this was unfair treatment of Mr A.

In respect of the frustration and stress that RCI's actions have caused Mr A I currently think a payment of £200 compensation would be fair. This would include the £100 already agreed by RCI on the investigator's recommendation.

Mr A is very dissatisfied with RCI's evasiveness during his calls. I've listened to the calls, and I agree with him that they were contentious at times. Overall, I think RCI's agents were trying to assist Mr A with the issues he raised but also felt that he might be experiencing financial hardship which is something they are required to address. Mr A should note that complaint handling is not a regulated activity and so we do not consider complaints about how this has been carried out.

Part of Mr A's complaint concerns the non-receipt of RCI's revised terms and conditions in December 2021. RCI said it sends emails to its entire customer base in these circumstances, and that, 'the data from the email send, this shows that Mr A was included. And further 'Mr A does not appear in the letter data which suggests the email to him did not bounce'. I'm sorry to learn that Mr A did not receive this important information, but I have no reason to believe that it wasn't sent by RCI. I agree with the investigator that there isn't anything that changed between November 2021 to December 2023 that would have caused Mr A to receive RCI's 2023 email, but not the 2021 email.'

My provisional decision and the parties' responses

I provisionally decided to uphold the complaint. I found that the Terms and Conditions of Mr A's account allowed him to close his accounts and that RCI hadn't treated him fairly in preventing this.

I intended to require RCI to close Mr A's two Fixed-Term Investment Bonds at an agreed date and to repay his funds with interest in accordance with the Terms and Conditions. And to pay Mr A a total of £200 compensation for the distress and inconvenience its poor service has caused him.

RCI didn't have any further information to provide and would await the final outcome.

Mr A said he is pleased I recognised that RCI should have allowed him to close his accounts following notice of revised Terms and Conditions. Mr A said he is also much more satisfied with the increased compensation amount of £200 for the considerable frustration and stress RCI have caused him.

Mr A said as a point of principle he should be put in the same position he would have been in if RCI had responded properly to his request to close his accounts. He said RCI has benefitted from paying him interest of 1.9%, against a Bank of England base rate around 5.00%. He asked for compensation for the lost interest on his accounts.

My point is that by refusing to close my accounts, RCI have denied me the opportunity to benefit from those attractive higher rates into the future, beyond the date of the ombudsman's ruling, which I think has been detrimental 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.

Having reconsidered the issues at the heart of this complaint I remain of the view that it would have been fair and reasonable for RCI to have allowed Mr A to close his accounts when he responded to the notice of changes to its Terms and Conditions it served on 14 December 2023. As a consequence I think that RCI should now allow Mr A to close his accounts without penalty and to pay him the interest that is due on his funds up to the date of the account closures.

I have thought about Mr A's point that RCI denied him the opportunity to earn a higher rate of interest on his savings for some months. If RCI had closed my accounts on 14 December 2023 when I first rejected the new T&Cs, I would have faced a much more attractive savings market than exists today. At around that time, I recall seeing savings accounts paying interest in the region of 5.0% - 6.0%, where similar accounts are now paying 3.5% - 4.5%, which is around 1.5% less.

I cannot be certain what Mr A would have done with the funds in his two RCI accounts had RCI allowed their closure in response to his request. He may have required the funds for non-investment purposes, or he may have invested elsewhere at a potentially higher rate of

interest. In these circumstances we do not award compensation for what might have happened only for identifiable and proximate losses.

Having said this, I was sorry to see that Mr A has been made to endure the distress and inconvenience of not being allowed to close his accounts when he expected this to be allowed. The delay has lasted around 10 months and for this reason I remain of the view that RCI should pay him a total of £200 compensation – this includes the £100 compensation recommended by the investigator.

My final decision

For the reasons given here and in my provisional decision, this complaint is upheld. I require RCI Bank UK Limited to close Mr A's two Fixed-Term Investment Bonds at a date agreed between them and to repay to him the money in the account with interest due in accordance with the Terms and Conditions of the account. I also require RCI Bank UK Limited to pay Mr A a total of £200 compensation for the distress and inconvenience its poor service has caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 25 November 2024.

Andrew Fraser
Ombudsman