

complaint

Mr A complains that due to Bank of Scotland plc's ("BoS") poor service he was not able to vote at the Annual General Meeting ("AGM") of a company he holds shares in. Mr A says this is the second time he has had this problem.

background

Mr A wanted to attend and vote at the AGM of a company he holds shares in. He held the shares in a nominee account with BoS. He emailed BoS in late November 2014 to ask when the registration forms for the AGM would be sent to him.

Bank of Scotland replied to Mr A the following day and said:

"I can confirm that your account is pre-active to receive the AGM particulars in due time for the AGM scheduled to take place in December. Your documents will be sent to you 3 weeks prior to the event. If in the unlikely circumstances you do not receive the documents by the 10th December 2014, please send me an e-mail to chase the matter up and I will assist you further."

Mr A received the documents on 9 December. He signed them and posted them back on 10 December. Unfortunately they were not received by BoS until 17 December, one day after the deadline to register to vote at the AGM.

Mr A complained that, for the second year running, he had not been able to register to vote.

BoS did not uphold Mr A's complaint. It did however offer to pay him £25 for the trouble and upset this matter had caused.

Mr A was not satisfied with BoS's response and brought his complaint to this service.

Our adjudicator recommended that Mr A's complaint should be upheld. He noted that BoS had told Mr A he would be sent the documents three weeks before the AGM. But they were not sent out until 5 December, 11 days before the deadline for registration.

He also noted that, despite knowing that Mr A was very keen to vote at the AGM, BoS did not tell him that he could register to vote by phone. It only mentioned this in its final response letter.

The adjudicator recommended that BoS should pay Mr A £150 for the trouble and upset he had experienced due to its poor service.

Bank of Scotland did not accept the adjudicator's view. It agreed that Mr A had complained about not being able to register to vote in the previous year's AGM. But it said the complaint had not been upheld.

It said that as Mr A had complained about this matter the year before, he should have known there were tight timescales for the registration process. It said he could have checked to see if his forms had been received before the deadline.

It also said that third parties send out the AGM pack and it could not be held responsible for any delays caused by a third party, or delays caused by the postal service.

It said that registering to vote by phone is not a service it offers; and is only an option in special circumstances. For example, if post goes missing and a shareholder checks to see if the documents have been received.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have come to the same conclusion as our adjudicator and for much the same reasons.

I have considerable sympathy with Mr A's position. It is clear that he was keen to vote at the AGM, particularly as he had missed the opportunity to do so the year before.

Mr A contacted BoS to check that he would be sent the registration forms and he returned them very promptly when he did get them.

BoS has said it is not responsible for the documents being sent to Mr A only 11 days before the deadline, not three weeks before as it had promised. However, I must take into account that it had told Mr A;

"Your documents will be sent to you 3 weeks prior to the event."

If it was not able to ensure the documents would be sent 3 weeks before the deadline, BoS should have explained this.

Likewise, I accept that BoS was not responsible for any delays caused by the postal service when Mr A posted the forms back. But again, I feel it could have taken into account that post is often delayed over the Christmas period. I think it should have offered Mr A an alternative way to register if he did not receive the forms in good time to return them before the deadline.

BoS knew it was important to Mr A that he was able to attend and vote at the AGM. Despite this, BoS did not assist him. I think it should have told Mr A when he contacted it in late November 2014 that, if necessary, he could register to vote over the phone. I appreciate that taking registration requests by phone is not standard practice for BoS. But I think in this case, particularly in view of the problems Mr A had experienced the year before, he should have been given this option.

Mr A was caused significant disappointment when he was unable to vote at the AGM. I also note that he experienced further problems when he phoned to check he would still be able to attend the AGM, despite not being registered to vote. To compensate Mr A for the disappointment and upset this matter has caused him I order BoS to pay Mr A £150.

my final decision

My final decision is that I uphold this complaint. In full and final settlement I order Bank of Scotland plc to pay Mr A £150 for the trouble and upset its poor service has caused him.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr A to accept, or reject my decision before 26 October 2015.

Suzannah Stuart

ombudsman