

The complaint

A, a limited company complains, The Royal Bank of Scotland Plc (“RBS”) has treated it unfairly in relation to a claim under the Direct Debit Guarantee (DDG).

A’s representative, Mr A (its director) brings the complaint on its behalf.

What happened

Mr A spoke on the phone with RBS through a third party representative on 25 February 2022. He explained he was looking for an update on a claim that had been made under the DDG. The agent couldn’t locate a claim and so the representative asked that the details be taken down to get another one up and running.

Mr A’s representative explained that the claim related to two direct debits. One to T (not the subject of this complaint) and one to N for loan repayments (the subject of this complaint). The third party went onto explain there was no signed direct debit mandate with N and the payments had been taken in error.

After taking some initial details, the agent confirmed a claim would be raised and if the originator rejected it, RBS had the right to debit any funds that had been credited pursuant to the DDG.

RBS contacted Mr A for additional information. Following which, it credited A’s account with just over £69,000 on 4 April, in relation to the direct debits paid to N. Those funds were withdrawn shortly afterwards.

On 19 May, RBS wrote to A. It said N had provided a copy of the direct debit mandate that had been signed giving it authority to claim payments from A’s account. So, to settle the matter, it would be debiting the account on 30 May. However, when the account was debited, there wasn’t enough money to cover the payment reversal, leaving it overdrawn.

Mr A complained about this, saying RBS had done this without good reason, failing to provide any information in relation to the payments. It had also failed to raise a claim for the payments proceeding N’s ownership of the loan, when that was held by another provider. He said the claim covered that part of the loan as well, so RBS was guilty of maladministration in not including it. Mr A wanted RBS to rectify the situation.

Mr A referred the complaint to us. On 20 January 2023, RBS issued its final response. It didn’t think it had made an error because it was satisfied Mr A through his representative had only referenced N, when submitting the information on the phone. It said N had subsequently returned evidence to show that there was a signed mandate for the payments to be collected. And so, acting on this, it had given appropriate notice to debit the account.

One of our investigators looked into matters. She didn’t think RBS had made a mistake in raising the claim and debiting the account. But she did think the bank could have provided better customer service, avoiding the need for A to repeat details about the claim and taking too long. She recommended RBS pay £100 for the inconvenience.

RBS agreed to the recommendation, but Mr A did not. In summary, he said:

- He'd raised a genuine claim under the DDG, and the bank had failed to adhere to it.
- Payments had been taken in error and no notice had been given. This had left him in extreme hardship.
- £100 wasn't satisfactory.

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.

It's clear Mr A feels strongly about what's happened. He's made a detailed submission in support of his complaint, which I have read and considered. I hope the fact that I do not respond in a similar manner will not be taken as a discourtesy; as an informal dispute resolution service, we are tasked with reaching a fair and reasonable conclusion with the minimum of formality. In doing so, it is not necessary for me to respond to every point made, but to concentrate on the crux of the issue and what I consider relevant.

The purpose of the guarantee is to protect customers who've allowed a third party permission to take payments directly from their account. If a payment error is made - either by the bank/building society or by the business collecting payment (the originator), then they should be able to get an immediate refund from the bank. In turn, the bank will get repaid by the originator, under the direct debit indemnity.

In determining how RBS handled matters, one of the key issues for me to decide here is was there a payment error? I've thought about what Mr A has said. But I'm afraid the available evidence doesn't support there was one. I've listened to the call from the 25 February when Mr A's representative asked for a claim to be raised again. During the call, the representative says there's been a payment error because there is no signed mandate, specifically no direct debit mandate ever signed. I note that he also mentions no advance notification of the payments had been given but the first of these points is clearly a basis for the claim and I consider it important. Because if it wasn't a reason, then the representative wouldn't have cited it.

During the call, the agent explains should the originator reject the claim, the bank has the right to debit the account in full. He explains this would be the case where there's a valid contract or payment terms.

When N came back with evidence of a signed mandate, A's claim was clearly rejected. RBS says the details on the direct debit mandate matched the details held by it. I find RBS was entitled to rely on this and follow through on removing the credit (as it said it would). The overall position is also borne out by what the guarantee says,

"If you receive a refund you are not entitled to, you must pay it back when the organisation asks you to".

I appreciate Mr A believes RBS should have checked with him and provided information. But there isn't a requirement for it to have done that. But even it had, it wouldn't have changed anything. Because if A didn't owe RBS, it would owe N instead and likely N would pursue for recovery.

RBS's letter of 19 May explained why it was removing the funds and it provided advance

warning of its intention to debit the account. Given that the agent also warned the originator could reject the claim, following an investigation, I'm satisfied recouping the money was always a possibility which Mr A was aware of.

Mr A has told us about the consequences, but the account went overdrawn as a result of A utilising the funds, rather than waiting. I don't consider this position would have been materially different had N come back sooner because A had removed the money within a few days.

I'm afraid I haven't found any mistake in not raising a claim in relation to the early part of the loan either, as this wasn't raised in the call of 25 February. I also observe it's odd that A didn't query the payments a number of years back if there was a genuine error, as these were debiting the account.

Having considered everything, I haven't found RBS treated A unfairly for the reasons given. Our investigator recommended the bank pay £100 for the inconvenience for some customer service short comings and RBS has agreed with that recommendation, so I'm not going to interfere with that. But for the avoidance of doubt there isn't a basis for me to require it to pay more.

My final decision

The Royal Bank of Scotland Plc has made an offer to pay £100 to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that The Royal Bank of Scotland Plc should pay £100 to A. I make no other award or direction.

Under the rules of the Financial Ombudsman Service, I'm required to ask A to accept or reject my decision before 10 April 2024.

Sarita Taylor
Ombudsman