



The complaint

Mr M complains the Royal Bank of Scotland Plc incorrectly used funds in his current account to pay an existing credit card debt. He says RBS did this without permission or warning.

What happened

Mr M holds a number of accounts with RBS including a current account and a credit card.

RBS withdrew just over £1,100 from Mr M's current account in March 2020 and used this money to pay the debt he owed on his credit card. Mr M says this was done without his permission or without proper warning.

Mr M says RBS did not notify him that it intended to remove the funds, and as such it has acted unfairly. He also says RBS didn't treat him fairly when he notified it of financial difficulties in relation to the credit card debt.

RBS says it sent a letter to Mr M which confirmed it planned action to use its right to offset. It says this was sent to Mr M via the post 14 days before it removed the funds. Mr M says he never received this letter.

RBS also explained in its final response letter that Mr M had not made any payments on his credit card since September 2014, and that these regular statements explained the need for him to clear his existing debt. RBS say these statements make it clear it may use the right to offset to clear the existing balance.

Mr M brought his complaint to our service, and our investigator considered it. Having done so, our investigator felt RBS hadn't done anything wrong. In the course of his investigation, our investigator asked for RBS to provide copies of the letter it sent to Mr M explaining its intention to offset the funds. RBS was unable to provide the exact letter it sent to Mr M but provided our service with a generic template letter, and an audit trail to confirm which letters had been sent and when. RBS also provided our service with Mr M's terms and conditions. Our investigator also felt RBS had acted fairly when Mr M contacted them about his financial hardship. Our investigator highlighted that RBS had refunded interest and charges on his account, as well as charging no further interest since June 2015.

Mr M disagreed with our investigator's opinion. He said RBS hadn't proven it had sent the letter to him. He maintains RBS has acted incorrectly by withdrawing his funds. As no agreement could be reached the matter has been passed to me to issue a final decision on.

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 M says RBS acted wrongly in withdrawing funds from his current account to offset the debt on his credit card. He says RBS shouldn't have done this.

I've considered this argument carefully but ultimately, I disagree with Mr M. In reaching my decision I've considered whether Mr M had a balance outstanding with RBS, whether RBS acted fairly in using funds from his current account to offset his credit card balance.

I appreciate Mr M disputes the level of debt owed on his credit card, but having reviewed the file, I'm satisfied there was an amount due.

I say this because our service has been provided with a number of Mr M's credit card statements. These show Mr M had an outstanding balance on this card dating back to September 2014 of approximately £1,100. The statements make it clear to Mr M that he needs to repay this amount.

The subsequent statements from September 2014 onwards show that Mr M hadn't made repayments to this credit card, and as such the total amount hadn't reduced. Based on this I'm satisfied that at the point RBS withdrew funds from his current account in March 2020 there was still a balance outstanding.

I also note Mr M hasn't disputed that he received some, if not all, of these statements, and as such I'm satisfied, he was aware there was an amount (regardless if he agreed with it) due.

As I'm satisfied a debt was owed, I've gone on to consider whether RBS acted fairly when offsetting money from Mr M's current account onto his credit card.

Our investigator explained to Mr M that the right to setoff is a principle which is set out in various banking codes and regulations. It is a common term, and applies to most, if not all, retail banks. The right to setoff is also explained in RBS' terms and conditions.

RBS has provided our service with Mr M's terms and conditions. These say that RBS is entitled to use the right to setoff in certain circumstances. These say, *'if you've borrowed money from us (for example, through a loan, credit card or overdraft) and the money or the repayments are overdue for payment, we may take money from your account to repay some or all of the money you owe us (including any fees or interest).'*

Having read the above term, I'm satisfied it is sufficiently clear in explaining to Mr M in what circumstances money may be used to pay off an existing debt. I'm also satisfied having read this term that the circumstances of Mr M's case give rise for RBS to rely on the right to offset. Namely, that Mr M had a debt with RBS, and that repayments were overdue.

Mr M disputes RBS gave him sufficient notice before withdrawing funds from his current account. He says he never received any notification from RBS of its intention to set-off the money he owed.

RBS has provided our service with generic template letters which it says it would've sent to Mr M. It says it is unable to find copies of the actual letters it sent to Mr M. I've read the generic letters which RBS has sent, and I'm satisfied they are sufficiently clear in explaining that RBS may use its right to setoff to repay the existing debt.

RBS has also provided our service with an audit trail which confirm the date, and address the letters would've been sent to Mr M.

I appreciate Mr M says he never received these letters, but where there is conflicting information, I have to make a decision on the balance of probabilities. That is to say what I think is most likely to have happened. Considering that RBS has provided us with the audit trail, as well as the letter codes which match the templates, I'm satisfied it is more likely than not these letters were sent to Mr M. I also note the address Mr M has given RBS, as well as our service are the same. So I'm satisfied any correspondence which would've been issued by RBS, would've more likely than not been sent to the same address.

As I'm satisfied that RBS more than likely sent the letters to Mr M, it follows that I'm satisfied it gave him sufficient notice of its intention setoff his existing debt. I'm also satisfied that RBS gave Mr M sufficient time to come to an agreement regarding the outstanding credit card debt before it exercised its right to setoff. So for these reasons combined, I'm satisfied RBS acted fairly in this instance.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 6 September 2020.

Tom Whittington
Ombudsman