

The complaint

Mr B complained that Bank of Scotland plc ("BoS") had decided to make a refund from an old credit card account that was closed many years ago. But instead of paying the money to him, BoS paid it to the company that had bought this debt from BoS.

What happened

Mr B said BoS had decided to make a refund on his account, but he said instead of giving him this money, BoS had paid the refund to the debt collection company that bought the debt many years ago. Mr B said that the money BoS was refunding was his, so he should decide where it went, and who it was (or wasn't) transferred to. He said BoS shouldn't have sent this money to debt collectors without consulting him, or getting his authorisation. He felt that was a decision BoS did not have authority to make, and should not have assumed.

Mr B wanted us to ensure BoS paid him back his money, and apologised for what it had done. He said at the time BoS sent this money the debt was statute barred, so paying the debt collector was both unnecessary and not something he would have agreed to.

BoS didn't think it had done anything wrong. It said that this refund was of interest applied to Mr B's card just before the account was closed. It didn't think that interest should've been incurred, so it had decided to refund it. But because this was part of the debt that BoS had sold to debt collectors, it said that this money would be used to reduce that debt.

BoS said that Mr B wasn't entitled to this unless he'd paid all the debt off. If he'd done that, then the debt collector would pay him back.

Our investigator didn't think this complaint should be upheld. He said it seems reasonable that BoS would pass the funds onto the company who bought Mr B's debt, to be offset against any outstanding debt. Our investigator said that if Mr B hadn't been in debt, then the money would have been paid to him. But he was, so the money went to reduce that debt. Our investigator didn't think that BoS had to do anything more.

Mr B didn't agree. He said that BoS shouldn't be able to direct funds that belong to him, to a source he had not authorised. He repeated that this was his money. And a bank shouldn't be able to use his money in a way he had not allowed it to.

Mr B said that this debt was statute barred, so it was no longer due. The money was his, and should have been returned to him.

But our investigator didn't change his mind. Mr B asked for his case to be considered by an ombudsman, so this case was then passed to me for a final decision.

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've reached the same overall conclusion as our investigator.

Mr B has explained that the reason he feels this is his money is because this debt was statute barred, so he didn't have to pay it. But what Mr B is asking me to do here is to make a legal decision, that he doesn't owe this money.

I don't have full information on that debt. And even if I did, our service isn't a court, and it's not for us to decide whether a debt is legally enforceable. Only a court can decide this.

What I have to look at is whether the business that Mr B complained about, BoS, has acted reasonably.

And I think it has. I would still say that BoS has acted reasonably here, whether or not this debt is enforceable now. And that's because I don't think this was ever Mr B's money. It was money that BoS had lent him, that he wasn't able to pay back.

As I've said, I don't have full information on what happened here, and how Mr B ended up in financial difficulties some years ago. That can happen for all sorts of reasons, including things where no one is really to blame.

But we do know that Mr B ran up a credit card debt. And we know he didn't pay it.

BoS has told us that the debt was made up both of money Mr B had spent, and interest and charges applied for using the card.

BoS has decided that some of that debt, a bit of the interest it applied, shouldn't be there. So it's made a refund. But what it's done is to pass the money to the debt collection company that bought this debt.

So I think that what BoS has done is to put Mr B in the situation he should have been in, if it had taken the right approach to this debt years ago. Mr B's debt would have been a bit smaller, if BoS had done the right thing then. And now, it is a bit smaller.

I don't think that BoS should have behaved differently because of things that happened after this, like whether Mr B paid off the debt, or whether it's still enforceable now.

BoS has been clear that it would always have paid this money to the debt collection company, and if Mr B had paid off the debt, then that company would have passed the refund on to him. I think that's the right approach.

Mr B might also like to know that this is the same approach our service routinely takes in similar situations. So if Mr B had complained to us about interest applied to his card, and I'd decided that complaint in his favour, any refund of interest would still have been used in the same way – to reduce his debt. It wouldn't have been paid to him.

For these reasons, I don't think that BoS did anything wrong here. I know that Mr B will be disappointed, but I don't think this complaint should be upheld.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 29 November 2021.

Esther Absalom-Gough
Ombudsman