

## The complaint

Mr G complains that TSB Bank plc used his PPI compensation payment to offset against his credit card debt, a debt that was subject to a previous Debt Relief Order (DRO) and which he thought had been written off.

## What happened

Mr G had a credit card account with TSB, which was subject to a DRO in 2013. Following this, the debt with TSB was waived. Mr G said after the completion of the DRO he closed the TSB credit card account and destroyed the credit card. In 2019 he complained to TSB that he'd received a letter which indicated that his account was still open and he was still liable for the debt. In its final response in July 2019 TSB said the letter had been generated in error due to a known issue within its system. It said Mr G could ignore the letter. It confirmed TSB had registered Mr G's insolvency and had waived the outstanding debt. To compensate Mr G for any distress and inconvenience he may have experienced it sent him a cheque for £50.

In June 2021 Mr G received a letter from TSB concerning a PPI refund Mr G was due, £409.08. The letter indicated that as fees and interest were outstanding on Mr G's credit card account it would adjust his credit balance by £409.08. Mr G complained to TSB. He didn't understand why his account was still open with an outstanding balance, especially as it had been confirmed closed in 2019, and he wanted to understand why his PPI refund had been used against that balance.

In its final response TSB said it hadn't made a mistake. It said the PPI refund figure relating to Mr G's TSB credit card was generated totalling £409.08. It said this figure was credited to Mr G's account as that is where the charges would have been applied to. It acknowledged that Mr G had been made insolvent and suggested that no error had been made apportioning the refund to the credit card. However, it said if Mr G's insolvency practitioner could provide a written statement that they have no interest in recovering the funds from the PPI claim it would be able to arrange for these to be refunded directly to Mr G.

Mr G remained concerned and brought his complaint to this service. Mr G also complained that the balance on his credit card account had been £4,000+ in June 2013 but despite completing the DRO the balance had risen to £7,000+ by January 2016.

Our investigator concluded that there would be no reason for the PPI refund to be paid directly to Mr G. However he thought TSB could have done more to make sure they were providing the correct information to him at the time. The investigator said by not doing this TSB undermined the peace of mind and psychological closure that Mr G was quite reasonably seeking to obtain from having entered a DRO in the first place. He also said that addressing the balance increase from 2013 to 2016 was a complaint point he could consider. He thought it fair and reasonable that TSB:

- Write a further letter of apology to Mr G offering firm assurances that the account is closed and the balance has been waived, and that this has been the case since the completion of the DRO;
- Explain within this letter the reasons behind the increase in balance as reported on

- account statements sent to him in 2013 and 2016; and
- Pay Mr G £250 for his distress and inconvenience.

TSB agreed to write a letter of confirmation to Mr G regarding the PPI letter sent in June 2021 and apologise for any inconvenience caused. But it didn't agree that £250 compensation was fair and reasonable. Mr G did not accept this and asked for a decision from an ombudsman.

I issued a provisional decision on 27 September. I said:

*I'd like to thank Mr G for his evidence and I'd like to reassure him that I've read and considered all of his submissions, including listening to his complaint calls with our investigator. Mr G's concerns include that his PPI refund should have been paid directly to him; that his account is open and vulnerable to fraud; that he might still be liable for the outstanding debt with TSB; and an explanation as to why the balance had risen between 2013 and 2016.*

*When Mr G got a DRO, the debts he owed weren't legally cancelled – they were effectively frozen. And they weren't cancelled when the DRO ended. So the debt Mr G had on his credit card wasn't paid back. Mr G said he doesn't owe TSB anything. But this is not correct. Mr G's debt still exists, it's just that TSB can't chase Mr G for this debt because of the DRO. So Mr G hasn't been and isn't required to take any active steps to pay his debt back.*

*On one of the complaint calls to the investigator Mr G said the insolvency service paid his creditors. This also isn't correct. The debt hasn't been paid off, it's been waived. And because the debt still exists TSB is still out of pocket for this money. TSB has accepted that it owes Mr G money for the PPI compensation, so it owes him a debt too. And it is 'setting off' that debt for the PPI compensation against the debt Mr G owed for the spending on his credit card account which still exists and is still owed to TSB.*

*There is in law what is called the equitable right of set-off which allows people to 'set off' closely connected debts. This means that one person (A) can deduct from a debt they owe another person (B), money which that person (B) owes to them.*

*For this right to set off to apply, I must be satisfied that there is a close connection between the PPI compensation and the outstanding debt. I must also consider whether it would be fair for TSB to set off in this way. Both tests must be satisfied for me to find that TSB has an equitable right to set off the PPI compensation against Mr G's outstanding debt on his credit card.*

*The PPI sold to Mr G was directly connected to his credit card. Using the right to set off I've outlined above, I'm satisfied the PPI compensation and the credit card debt are closely connected. They both related to the same account Mr G had with TSB and I've seen nothing to show Mr G had priority debts. So I think it's fair and reasonable for TSB to use the compensation it owes Mr G to reduce his credit card account debt. I understand Mr G is very concerned that he's still liable for this debt. So, I think at this point it's worth repeating for clarity that while the debt still exists TSB can't chase Mr G for this debt because of the DRO. And Mr G isn't required to take any active steps to pay his debt back nor will he face any future charges because of it. The debt has been written off.*

*Mr G has said that on a different account where he had a successful PPI claim with a*

*different company that business paid him directly. The circumstances around that other account or PPI policy are not known to me and aren't relevant in this case. My role is to look at the individual circumstances around this complaint with TSB.*

*The credit card account with TSB has been closed. And the debt has been written off. But I do appreciate Mr G's confusion. I've read the PPI refund letter TSB sent in June 2021. It does appear to imply that the account is still open or at least is still accruing interest and charges. And I can understand why Mr G would be concerned to receive this letter. While this was perhaps a standard letter it did cause Mr G some distress. Having received a letter two years previously to tell him the account was closed it would be reasonable to expect that any follow-up correspondence wouldn't imply the account was still open. So I do agree that it would be helpful and put Mr G's fears to rest for TSB to set out clearly in a new letter that Mr G's credit card account is closed and therefore not operational.*

*TSB disagreed with our investigator that Mr G should receive £250 in compensation. Its proposal was just to send a letter. I do think £250 is more than I would expect in these circumstances, but Mr G was caused some distress and confusion by the PPI letter. So I think an award of £75 compensation is more fair and reasonable and what I would expect in these circumstances.*

*When he brought his complaint to the service Mr G also questioned why the balance of his account had risen from £4,000+ to over £7,000+ between October 2013 and 2016. TSB believed this formed part of the complaint in July 2019 and did not form part of this current complaint. I tend to agree that this complaint point doesn't form part of this current complaint and so I am unable to look at it. But I can't see that this point was directly addressed in the July 2019 final response letter. This letter does confirm the outstanding debt has been waived. And whether it be around £4,000+ or £7,000+, as I've said above, TSB can't chase Mr G for this debt because of the DRO and Mr G isn't required to take any active steps to pay this debt back.*

TSB accepted my provisional decision. Mr G wanted to ensure that his record is clear. He also wanted TSB's 'poor conduct' highlighted.

### **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 done so, as neither party has provided any further evidence, I believe my provisional decision still stands.

Mr G has told us that he is very unwell. I'm very sorry to hear that. He has asked for reassurance that his record is clear. As I outlined above, I can provide the following reassurance. Mr G's debt has been written off. This means TSB can't chase Mr G for this debt because of the DRO. And Mr G isn't required to take any active steps to pay his debt back nor will he face any future charges because of it.

To clear up the confusion caused to Mr G by TSB's letters I am asking it to write a further letter confirming the account is closed.

### **Putting things right**

In order to put things right TSB Bank plc must:

- Write a further letter of apology to Mr G offering firm assurances that the account is closed and the balance has been waived, and that this has been the case since the completion of the DRO;
- Pay Mr G £75 for his distress and inconvenience.

**My final decision**

My final decision is that I uphold this complaint and TSB Bank plc must put things right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 22 November 2022.

Maxine Sutton  
**Ombudsman**