

The complaint

Mr and Mrs P complain that they were mis-sold their packaged bank account with The Royal Bank of Scotland plc (RBS).

What happened

In 2022 Mr and Mrs P complained to RBS that they were mis-sold their packaged bank account (PBA). Specifically, they said they had previously held a free 'budget account' which they paid cash into every week – they were then able to pay household bills via cheque, direct debit or standing order. However, they were then told the bank was withdrawing this type of account and that the only way they could continue managing their finances in this way was to take out a 'packaged royalties' PBA at a cost of £6 a month. Mr and Mrs P also mentioned that the branch manager they spoke told them it was best to have an up to date accounts if they were to require any 'facilities' in the future. They noted they had never once used any of the benefits.

RBS looked into things and said that Mr and Mrs P had first opened their account in May 1988 as a fee free account. It was converted to a Royalties account on 1 February 1999 and it was closed on 29 October 2013.

RBS didn't uphold the complaint. It said it had sent Account Information Packs to Mr and Mrs P in July 2009 and March 2010 which contained information about the benefits and monthly fees to allow them to review their account. So, it felt it had provided clear and accurate information and it said they were aware of alternative fee free accounts. It also made reference to the fact that there was no record of any loan applications around the time of the PBA sale.

Mr and Mrs P remained unhappy and brought their complaint to our Service. They stressed that RBS's reference to a loan being involved in relation to the alleged mis-sale of their PBA was inaccurate – they had never mentioned a loan being relevant to their complaint. They also said they were unhappy with RBS's handling of their complaint.

On being notified the complaint had been brought to our Service, RBS raised concerns that it had been brought too late.

Our Investigator looked into things and first considered the matter of jurisdiction. They were of the opinion the complaint about the PBA mis-sale had been brought in time and RBS accepted this. But they said complaint handling fell outside the activities that our Service could consider. They didn't uphold the merits of Mr and Mrs P's PBA mis-sale complaint, noting:

- Mr P opened a free 'cash line' account at the same time the PBA was opened so he was aware fee free accounts were available.
- Letters were sent to Mr and Mrs P in July 2009 and March 2010 which contained information about the benefits and monthly fees and they were asked if they wanted a review.

Mr and Mrs P disagreed. They said they wouldn't have chosen to start paying £6 for a facility they had had for free unless they felt there was no other choice. Mr P stressed he was not able to pay his bills from the cash line account in the way he could from the PBA account. Mr and Mrs P highlighted again that they did not use any of the benefits and that their testimony about the conversation that happened in branch at the time of sale should be taken into account. They also said they did not take holidays abroad and did not have their own car.

Mr and Mrs P also raised concerns about the conduct of RBS in the handling of this complaint. For example, they said it was lying about the date the PBA was sold and refusing to provide copies of the call recording that would show they never mentioned a loan being relevant to the sale of the PBA. They wanted to ensure RBS weren't allowed to get away with this.

So, the complaint was passed to me to decide. After reviewing things, I thought it was likely I'd reach the same outcome as the Investigator but for different reasons, so I issued a provisional decision to ensure both parties had the opportunity to respond before a final decision was made. In brief, I said that the prospect of getting a good deal on their savings account and overdraft would likely have been attractive to Mr and Mrs P at that time and a strong reason why they might have agreed to the PBA over a standard fee-free account.

RBS made no further submissions. Mr and Mrs P disagreed with my findings. They explained they couldn't remember why they took out their overdraft around that time but raised concerns our Service was taking RBS's word for what happened. The points they raised included:

- That there had been conflicting information provided by RBS and our Service on when the account was sold and that this was due to RBS's lies.
- If RBS don't know what was said at the time of sale, it's fair we take Mr and Mrs P's version of events, particularly in light of the lies they feel RBS has told.
- That the interest rate bonus wouldn't have equalled the £4 a month charge on their PBA.
- They have evidence from 2004 and 2005 to show thousands of pounds of bank charges paid to RBS.
- It makes no sense that they would suddenly decide to pay for a PBA after years of not paying for the same facilities.

I'm now in a position to issue a final decision on this complaint.

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.

In terms of the date the PBA was sold, it's clear we don't know precisely when this happened. I agree there has been conflicting information given to Mr and Mrs P about this and it may help them to understand that the existing account records are historic and not necessarily complete. The evidence of the account that does exist shows no charges in association with a PBA before February 1999 and it also shows that when an overdraft was taken out in April 1999 the account was a Royalties PBA. So, in my opinion it seems more likely than not that the PBA was sold around February 1999.

I recognise Mr P has raised significant concerns over the evidence RBS has provided in relation to this complaint. For example, he has said he held his RBS account prior to 1988. Mr and Mrs P are understandably concerned by discrepancies, about the fact RBS haven't

been able to provide particular call recordings, and about the length of time RBS took to respond to their complaint. They are also concerned by the fact RBS inaccurately said they mentioned a loan being relevant to their decision to take the PBA. However, I won't be commenting on the way RBS has handled this complaint. I want to assure Mr and Mrs P that I have carefully reviewed the evidence provided by all parties when reaching my findings. But as our Investigator has explained, complaint handling isn't something I can look into. Our Service operates under a set of rules published by the Financial Conduct Authority (FCA) and known as the Dispute Resolution (DISP) rules. Amongst other things, the DISP rules detail the types of activity that our service can consider. And complaint handling is not an activity listed within these rules.

In addition, it is not our Service's role to regulate businesses, this is the role of the FCA, and so we wouldn't punish a business for its error. Our role is to consider the specific complaint and where we identify errors, consider how we can best try to put the consumer back into the position they would have been in had errors not occurred.

For these reasons, this decision will focus on Mr and Mrs P's complaint about the mis-sale of the PBA rather than RBS's handling of that complaint.

That being said, where matters are in dispute and evidence is lacking, I have to decide what I think is more likely than not, based on everything that is available. So, I'd like to reassure Mr and Mrs P that I can and have considered the discrepancies and missing information in this regard. But I think it's also fair to highlight that I don't think it's unreasonable that RBS has incomplete records of the account activity from over 24 years ago. I think in this context a lack of evidence is understandable.

We've explained our approach to complaints about packaged accounts on our website, and I've used that to help me decide this complaint. And having weighed everything up, on balance, I don't think that the PBA was mis-sold. I will explain why.

Mr P has said that the sale of this PBA took place in branch and his wife was not present. He said he was not given an option of alternative accounts and was told they needed to take out the PBA in order to continue managing their finances in the way they had been.

Which means I need to consider if it is more likely than not that this was the basis on which this PBA was sold.

I appreciate both Mr and Mrs P held a fee free 'cashline' account around that time. But I agree with them that this alone doesn't demonstrate that they were aware there was a fee free alternative to their PBA account. I say this as Mr and Mrs P explained they were using their account to pay household bills via standing order, direct debit etc. Facilities that were not available with the cashline account. They also didn't hold any other accounts with RBS that would have allowed them to operate their finances in the way they wished at the point they opened their PBA or at any point prior to them closing it in 2013.

That being said, I also think it's relevant that many high street banks in the UK at that time offered current accounts with the ability to pay standing orders and direct debits as fee free accounts. Indeed, fee free accounts were and are standardly available within the UK banking industry. Which means I do think it unusual that Mr P and Mrs P say they were not aware having such an account was a possibility either at that time or at any point before the account was closed in 2013.

Considering the account itself for a moment, evidence our Service holds shows that in February 1999 this PBA cost £4 a month and provided a range of banking and insurance benefits. Included in these banking benefits, were fee-free overdraft up to £100 and

preferential (compared to rates on fee-free accounts) interest rates on overdrawn balances above this amount (up to the agreed limit). It also provided preferential interest rates on loans and credit cards, as well as a 0.5% interest bonus on savings too. There was also a free basic mortgage valuation.

Mr and Mrs P have said the insurance benefits and mortgage valuation were of no use to them, but I can see that Mr P had a savings account at that time and so he'd have immediately benefited from the extra 0.5% savings rate. I appreciate he's said the savings were not large enough that this benefit equalled the cost of the PBA and I've considered this. But I also think it's relevant that Mr and Mrs P took out a £2000 overdraft two months after opening the PBA. I say this also noting that Mr and Mrs P increased the overdraft to £2500 in July 1999, three months later, and so I think it's more likely than not they were utilising the majority of this overdraft relatively quickly.

And all of this means I think the prospect of getting a good deal on both their savings and overdraft would've been attractive to Mr and Mrs P at that time, and a strong reason why they might have agreed to the PBA over a standard fee-free account.

I acknowledge that Mr and Mrs P's testimony has been consistent, and this adds weight to it. But their evidence needs to be balanced against the other available evidence outlined above. And I do think it's also of relevance Mr P recalled reference to 'facilities' they might need in the future at the point of sale. I think this is likely a reference to the additional facilities that such an account could offer, including an overdraft and the other benefits, and I think this makes it more likely that these benefits were discussed and that a future change in their circumstances that could utilise these, including imminent borrowing, were likely a relevant consideration at that time.

I would also note that there are aspects of Mr P's recollections which are not accurate, such as the cost of the PBA which wasn't increased to £6 until March 2005. Whilst this is entirely understandable given the passage of time, it also demonstrates that his recollections may not be entirely accurate or complete. And these are also factors I need to consider when deciding whether it's more likely than not this account was mis-sold.

So, when weighing everything up, I think it's more likely that Mr and Mrs P agreed to the PBA because of the benefits it provided, rather than because they thought they had no choice in the matter.

I can see that the Investigator said that the account was sold on a non-advised basis, whereas Mr and Mrs P say it was recommended to them. However, whilst it's not clear on what basis it was sold, even if I thought that it was recommended, I don't think it was necessarily an unreasonable recommendation. I think it's the case that recommending the account for the potential savings Mr and Mrs P would be able to make on the banking products was not unreasonable.

Finally, I accept it's possible that RBS might not have given Mr and Mrs P all of the information about the account when it was first sold to them. But I've not seen anything about their circumstances at the time that makes me think they would've been put off from agreeing to it, had they been given more information about the account and the associated benefits.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P and Mrs P to accept or reject my decision before 29 January 2025.

Jade Cunningham
Ombudsman