

## **complaint**

Mr and Mrs E complained that The Royal Bank of Scotland Plc ('RBS') mis-sold them a packaged bank account in July 2000. They also complained that RBS upgraded them to a more expensive packaged bank account, in April 2002, without their knowledge.

## **background**

Mr and Mrs E said that they took out the Royalties account, in 2000, because RBS told them that taking it out was the only possible means for them to be considered for a higher overdraft facility. They also said that they weren't aware their Royalties account was upgraded to a Royalties Gold account in 2002. Mr and Mrs E said that they didn't need or use the benefits on the packaged bank accounts and the accounts weren't suitable for them. They also told us that they didn't downgrade to a fee free account when they complained to RBS because they feared that the overdraft on their account would be reduced or removed.

Our adjudicator who looked at this complaint thought that it should not be upheld. Mr and Mrs E disagreed and asked for an ombudsman to review their complaint and make a decision.

I issued a provisional decision to the parties in August 2015, informing them that I didn't think the complaint should be upheld. I invited both parties to respond to that decision with anything further they wanted me to consider before I made my final decision. Mr and Mrs E asked for supporting documents and information which I'd relied on in reaching my provisional decision. This information was sent to Mr and Mrs E and an extension of time to reply to my provisional decision was given to them. Mr and Mrs E have now given us their comments on the provisional decision and some additional information to consider. RBS didn't give us any further information following the provisional decision.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. We've explained how we deal with complaints about packaged bank accounts on our website. And I've taken this into account in deciding Mr and Mrs E's complaint.

I know that my decision will come as a disappointment to Mr and Mrs E, but for the reasons set out below, I don't intend to uphold their complaint.

Around 15 years have passed since the sale of the Royalties account and over 10 years since the sale of the Royalties Gold account. Over time, memories of conversations and events can and do fade. Given the passage of time, RBS hasn't been able to provide us with much documentation from the time of these sales. So where Mr and Mrs E and RBS disagree about what happened when the accounts were upgraded, I need to decide what I think is most likely to have happened, based on all the information I have.

Looking at all the information I have been given, I think it's likely that Mr and Mrs E were given a fair choice about upgrading to both the Royalties and Royalties Gold accounts. And I think that they agreed to upgrade because they were attracted to at least some of the benefits which the accounts offered.

*fair choice*

I note that Mr and Mrs E held a fee free account with RBS before they upgraded to the Royalties account in 2000. I can also see that they had an overdraft facility with their fee free account and had successfully increased this facility, including in May 1999. So given they'd successfully increased their overdraft facility on their fee free account before they upgraded to the Royalties account, I think that they would have known that they didn't have to upgrade to a packaged account to do this.

The account information RBS has given us also shows that after Mr and Mrs E upgraded to the Royalties account their overdraft facility wasn't increased until February 2002-around a year and a half after the upgrade. Mr and Mrs E have questioned some of the information which RBS has given us about their overdraft application history. In particular, they've said that information about their application, in May 1999, is missing. But RBS has given us information about this application. Mr and Mrs E also said that RBS only recorded overdraft applications which were accepted or ceased, and applications which were declined weren't recorded. I don't know if that is correct, but even if it is, if Mr and Mrs E upgraded only because they believed it would lead to an increased overdraft, I would have expected to see a successful application for an overdraft around the time of upgrade. And if they'd had applications to increase their overdraft declined, given the reason they've given for their upgrade, I would have expected them to complain about this to RBS and downgrade the account to a fee free one again.

But neither of these things happened. So I'm not persuaded they upgraded to the Royalties account because they were told that this was the only way they would be able to increase their overdraft, either in July 2000 or at some point in the future. Instead, I think it's more likely that Mr and Mrs E were aware that they had a choice about taking the Royalties account and took it because they were attracted to some of the benefits that came with it.

Mr and Mrs E also told us that they paid their first fee for the Royalties account in December 2000. Given that they upgraded to the Royalties account in July 2000, I think that Mr and Mrs E were probably given the account free for the first six months. And given that they were regularly using their overdraft at this time, I think that they would have been attracted to the account and the preferential overdraft rate that came with it.

Mr and Mrs E also said that RBS upgraded them to the Royalties Gold account without their knowledge. They told us that they saw the account fee increase on their statements but assumed that this was a fee increase for the Royalties account. They've also pointed out the RBS doesn't have any signed application for this upgrade.

But even if Mr and Mrs E signed an application form to upgrade, given the passage of time, it's not surprising that RBS isn't able to provide one. Looking at all the information I've been given, I'm not persuaded that RBS upgraded Mr and Mrs E without their knowledge or consent. I think it's more likely that Mr and Mrs E agreed to upgrade to the Royalties Gold account for the enhanced benefits it offered, particularly the enhanced preferential overdraft rate. RBS said that it would have sent Mr and Mrs E a Welcome Pack following the upgrade. And it said it would also have sent them information in the years after the upgrade, about changes to the account benefits and 'Refresher Packs' reminding them of the benefits they had with the Royalties Gold. I think that Mr and Mrs E would have received at least some of this information. And if they hadn't agreed to upgrade to the Royalties Gold account, I would have expected them to query with RBS why they were being sent information about this

account. But they didn't do this. So, I'm not persuaded that RBS upgraded them to the Royalties Gold account without their knowledge and consent.

*non-advised sales*

Mr and Mrs E have said that RBS sold them accounts that weren't suitable for them. RBS told us that it didn't provide advice to consumers when it sold packaged bank accounts. And from the information I've seen on this complaint, I'm not persuaded that RBS advised Mr and Mrs E to upgrade to the packaged accounts.

I think it's more likely that RBS offered the packaged accounts to Mr and Mrs E and asked them if they wanted to upgrade. That means that it was up to Mr and Mrs E to decide whether they wanted to upgrade and whether the benefits which came with the accounts met their needs. It wasn't for RBS to assess the suitability of the accounts for them or the benefits which came with them. However, RBS still had to give Mr and Mrs E clear, fair and not misleading information about the accounts and benefits to allow them to make an informed decision about taking them.

From the information RBS has given us, I can see that Mr and Mrs E were regularly making use of their overdraft facility before and after they upgraded to the Royalties account. So, I think it's likely that they were attracted to the preferential overdraft rate which came with the Royalties account. Mr and Mrs E have said that they don't believe that they benefited from preferential rates on their overdraft when they held their packaged accounts. But as I explained in my provisional decision, this information wouldn't have appeared on their account statements. Instead the preferential rates would have been automatically applied as a result of them holding the packaged bank accounts. RBS has given us information showing that Mr and Mrs E made savings on their overdraft of £394.33 over the lifetime of both packaged accounts. So, I think that they did benefit from the preferential overdraft rates which came with these accounts and that this was the main attraction for them when they upgraded in 2000 and again in 2002.

In my provisional decision, I said that I thought Mr and Mrs E were probably also attracted to some of the other benefits which came with the packaged accounts. Other benefits the Royalties account provided automatically, at the time of sale, included purchase protection cover, extended warranty cover and accidental death cover. The Royalties Gold offered enhanced benefits to the Royalties account for an increased fee (e.g. 2 year extended warranty cover as opposed to 1 year and £10,000 accidental death cover as opposed to £5,000) and a wider range of benefits.

In my provisional decision, I said that I thought Mr and Mrs E were probably attracted to the accidental death cover on both the Royalties and Royalties Gold accounts. I said this because Mr and Mrs E told us that Mrs E was 'medically retired' when they upgraded and I'd understood that to mean that she was no longer an employee and so only entitled to half the benefits under her employer's accidental death policy. And I hadn't seen anything to show that Mr and Mrs E were prevented from claiming on both Mrs E's work policy and the policy they'd had under the packaged accounts if they'd needed to.

Mr and Mrs E disagreed with me and gave me further information and copies of documents which they said show that, although 'medically retired' Mrs E is still an employee and entitled to the full benefit of her employer's accidental death policy. They also gave me an extract from a policy document from her employer (undated) which they said shows that Mrs E's accidental death cover prevents her from claiming benefit on more than one accidental death policy.

I accept that Mrs E's existing accidental death cover prevented her from claiming on other similar policies. But it's not clear to me whether Mr and Mrs E were aware of this when they upgraded to the packaged accounts. From what they've told us, I think that they probably only found this out in later years after the two upgrades - possibly when they brought a complaint to this service about a claim on Mrs E's policy. So I think that it's possible that when they upgraded in 2000 and in 2002, Mr and Mrs E were attracted to the accidental death cover which came with the packaged accounts. And as I said in my provisional decision, I haven't seen anything which suggests that the accidental death policies they were automatically covered for under the packaged accounts prevented them from claiming on duplicate policies. And given that RBS didn't advise them to take out the packaged accounts, it was for Mr and Mrs E to decide if the benefits which came with the accounts were useful and suitable for them taking into account existing or duplicate cover they had, including Mrs E's existing accidental death cover.

But I also think that even if, at the time of the upgrades, they were aware of the condition in Mrs E's existing accidental death cover - that prevented them from claiming on other similar policies - they'd have still upgraded to the Royalties and Royalties Gold accounts. This is because I think the main attraction for them was the overdraft benefits which the accounts offered.

In my provisional decision, I also said that I thought that in addition to the enhanced overdraft benefits on the Royalties Gold account, the home insurance discount was probably something Mr and Mrs E were attracted to when they upgraded to this account in 2002. Mr and Mrs E have said that they didn't benefit from a discount on their home insurance as they had their home insurance with a different insurer to the one that provided cover under the Royalties Gold account. I've looked at the extra information which Mr and Mrs E have given us and I can see that they held their home insurance with a different insurer. So, I accept that the home insurance discount wasn't of interest to them when they upgraded to the Royalties Gold account.

I don't know whether Mr and Mrs E were given all the information they should have been at the time of the upgrades. But I think they would have been told about the cost of the accounts and they've said that they saw this information on their monthly statements. And I think that they would also have been told about the main benefits which came with the accounts. And as I've said I think that they were attracted to at least some of the benefits the accounts offered.

I appreciate that there may have been some benefits on the accounts that Mr and Mrs E didn't want or use. However, packaged bank accounts are not usually tailored to the individual so it's unlikely that every customer will find every benefit useful. Customers can still be attracted to a packaged bank account even if they don't intend to use every benefit. And it was for Mr and Mrs E to decide whether the benefits, as a whole package, were attractive to them when they upgraded to the accounts.

In response to my provisional decision, Mr and Mrs E also referred to recent media reports about card protection cover which was a benefit of both the Royalties and Royalties Gold accounts. As to what the media or the Financial Conduct Authority has said about the sale of card protection, this applies to card protection sold on a standalone basis and doesn't apply to card protection included as a benefit in a packaged bank account. So I don't agree that the inclusion of card protection cover, as a benefit in the packaged accounts, is evidence that RBS mis-sold them their packaged accounts. Also, to benefit from this cover, Mr and Mrs E would have had to register their cards. And as they didn't do this, I'm not persuaded that this benefit was something which they were interested in when they upgraded to the packaged accounts.

Mr and Mrs E also pointed us to a letter they'd received from RBS in April 2015 which informed them that it was removing the Royalties Gold account and transferring them to a Select Platinum account. They said that this letter was 'definitive proof' that RBS upgrades accounts without customers having to make any sort of application or specific request. I've looked carefully at this letter. The letter says that RBS is removing the Royalties Gold account (in June 2015) and moving Mr and Mrs E to its most similar account – Select Platinum. The letter also gives some information on the cost of the Select Platinum and the different benefits which come with it. And it invites Mr and Mrs E to contact RBS if they don't think the Select Platinum is right for them and they want to discuss other alternative accounts, including a fee free account. I don't think that this letter is evidence that RBS upgrades customers to packaged accounts without their knowledge or consent. On the contrary, I think this shows that RBS has contacted Mr and Mrs E and told them about changes to their existing account and invited them to get in touch if they want something different.

Finally, I haven't seen anything to suggest that RBS told Mr and Mrs E that their overdraft would be removed or reduced should they downgrade to a fee free account. Mr and Mrs E had an overdraft with a fee free account with RBS previously so I think that they would be aware that they could have one again.

I've thought carefully about the other things which Mr and Mrs E have said to us. But I don't think that these make a difference to my decision. After very careful consideration, I'm not upholding Mr and Mrs E's complaint.

### **my final decision**

For the reasons above, I don't uphold this complaint against Royal Bank of Scotland Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs E to accept or reject my decision before 9 November 2015.

Avril O'Meara  
**ombudsman**