

complaint

Mr V complains that The Royal Bank of Scotland Plc has inappropriately registered adverse information about him on his credit file. He says that the loan should not have been sold by the bank to a third party.

background

Mr V took the loan in October 2008 and the amount borrowed included a sum used to pay a premium for payment protection insurance ("PPI"). In August 2009, Mr V was unable to work due to illness and made a claim under the PPI policy. The claim was initially rejected and was only paid, after a complaint about it was referred here, in June 2013. As Mr V's income had reduced, he was unable to continue with contractual payments from July 2009 although some payments were made from April 2010, which were increased from June 2011.

As payments were in arrears, the bank sent Mr V a Notice of Sums in Arrears in October 2009 and a Notice of Default in December 2009. Debt collection agents were later appointed and the debt was sold to another company in October 2011.

Mr V says that RBS acted inappropriately in selling the debt to a third party given the dealings that had gone on between him and the bank up to that time and were continuing. But our adjudicator explained the basis on which he considered that RBS was entitled to sell the loan to a third party, even with a debt being outstanding and there being a dispute between Mr V and RBS.

The adjudicator also said that the new owner of the debt would have been entitled to seek to recover the total outstanding amount – both the lending and arrears – as a single debt; although I am not able to make any determination about the actions of the third party organisation here as part of my decision about Mr V's dispute with RBS.

As regards to an issue relating to the alleged mis-sale of the PPI policy, the adjudicator explained that Mr V had referred a complaint here previously about that allegation and an ombudsman had decided that the complaint could not be considered as it had been referred outside the required time limits. Given that previous decision, the adjudicator said he could not look at the complaint now.

Mr V maintains that if the insurance claim had been paid promptly, adverse credit history would not have been recorded in respect of him. But the adjudicator concluded that even if the claim had been paid promptly, based on the payments that Mr V was able to make against the loan, the account would still have defaulted; and even though it might be arguable that default would have occurred later, to put back the date of default would not be in Mr V's interests.

Mr V has asked that his complaint be reviewed by an ombudsman.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I am aware that Mr V considers that his complaint is complicated, with complex elements.

Indeed, Mr V has presented detailed and lengthy evidence and arguments and I recognise that he has strong feelings about this matter. I should firstly say that I have looked carefully at everything that has been submitted. But I hope that Mr V will not consider the brevity of my decision, in relation to his submissions and his expectations as to the nature of the investigation he may be expecting, as a discourtesy to him or that it represents that I have inappropriately shortened my consideration of the complaint.

In short, Mr V maintains the claim should have been accepted and the default occurred because it was not. He says RBS should not have sold the debt while the decision about the claim was being disputed and should not have been sold in this case. He says he was not dealt with properly in terms of how repayments were requested but he would have made full repayments if the claim had been accepted and Mr V had received proper explanation of figures related to the debt. Mr V also disputes that part of his complaint is referred late.

Mr V also says that he was entitled not to make the loan repayments when he was not satisfied about the amount that he should be paying and the appropriateness of the PPI policy that he was paying for. Mr V is seeking that his credit file be repaired, he be paid compensation for the effects of the credit file being as it is and the way RBS has dealt with him. He is also seeking reimbursement of costs.

As regards to Mr V's complaint relating to matters that arise from the alleged mis-sale of the PPI, I agree with the adjudicator. An ombudsman has already decided that Mr V's complaint about the mis-sale of the PPI is not one that this service can consider, as it was not referred in time and no exceptional circumstances apply. I will not therefore address that matter.

Turning to the issue of the sale of the debt, I am afraid that I do not find I need to provide Mr V with the level of findings and conclusions, in response to the extensive representations he has made, that he is seeking to receive.

As a general point, I am required to determine complaints by reference to what I consider to be fair and reasonable in all the circumstances. In making that determination, amongst other things, I must have regard to (but am not necessarily bound by) any relevant law and regulations, regulator's rules, guidance and standards, codes of practice and good industry practice at the relevant time. Primarily, however, I have to consider what is fair and reasonable in coming to a determination.

I don't think it is material for me to determine whether RBS was entitled to sell the debt in the context of the legal arguments that Mr V makes – although, based on the evidence presented, I don't consider that I am in a position to say that the sale was inappropriate, on that basis, in any event. I have though considered, whether it was appropriate for RBS to sell the debt when the bank was in dispute with Mr V and he felt that he should be covered by the PPI policy.

I recognise that Mr V considered that the PPI policy should have been paying out, and if it had done so then he would not have been in the same financial situation. And it was only that the complaint was referred here that the claim was paid retrospectively. However, it remains that the decision to reject Mr V's claim was open to the bank to make – albeit with that decision being subject potentially to a complaint and referral here – and I do not consider that simply because Mr V disagreed with that decision he was entitled to not make payments to the bank.

I also do not consider that I can fairly and reasonably say that the bank acted inappropriately in selling the debt at a time that the PPI claim had been rejected even though Mr V intended to continue his dispute about that claim. It seems to me that the bank is still entitled to pass on the debt and Mr V remained entitled to continue his dispute about the PPI claim and with whoever was the current owner of the debt if he felt that he should not have to make repayments.

As regards to the matter of the credit file entry itself, it remains that Mr V did not maintain repayments, whether that came about as a result of unaffordability or his unilateral decision not to make payments. Regardless of ownership of the debt and how the debt was made up – I note that Mr V has concerns about his debt being considered to be a mix of the loan and PPI premium that may have been of no use to him – I do not consider I can require the bank to remove a default record that came about as a result of either reason.

I note that the adjudicator said that he considers that the default would have occurred in any event – and Mr V denies this – but, although I am inclined to agree with the adjudicator's conclusions about that, I am satisfied that the bank was entitled to register the default mark based on Mr V's failure to maintain payments, in any event.

Finally, Mr V has said that the bank is responsible for the manner in which he has been dealt with following the sale of the debt – given that he considers that the debt should not have been sold. However, as I have not found that the sale of the debt was inappropriate, I cannot address the actions of other organisations, once the debt was sold by the bank and owned by someone else, under a complaint against the bank.

In light of all I have said, while I recognise that Mr V will be disappointed with my decision, I make no award against, or direction to, RBS.

my final decision

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

Ray Neighbour
ombudsman