

complaint

Mr J complains that Bank of Scotland plc is unfairly asking him to pay a debt that should have been cleared by an insurance policy he held. Mr J wants the bank to cancel the debt and for the bank to apologise and refund his costs.

background

Mr J had a loan with the bank and took out a loan insurance policy at the same time. He claimed on the policy – first following an accident in 2007, and then in 2009 when he was made redundant. Mr J says that the policy should have cleared the remaining debt in full.

In late 2010 the bank transferred Mr J's account to a collections agency which began writing to him. Mr J says he wrote back saying no debt was owed and heard no more. This happened several times with different agencies and eventually Mr J complained to the bank. The bank explained that Mr J's insurance claim for unemployment had not cleared his entire balance and that he still owed about £1,200.

The adjudicator did not recommend that this complaint should be upheld. She concluded that Mr J's policy allowed him to claim for unemployment for 12 months and that the bank had credited Mr J's account with the equivalent of 12 payments. She noted that the bank had written to Mr J in mid-2010 to tell him that the last claim payment had been made, and that Mr J should have been aware that the claim would not clear his debt in full. She explained that a credit on a statement clearing the debt was an accountancy procedure when the bank was transferring his account to a collections agency.

Mr J has responded to say that the insurance was mis-sold initially and that the bank should have asked Mr J why he was still sending evidence of his unemployment once the cover expired.

my findings

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

Firstly I should explain that I am unable to consider whether Mr J was mis-sold the policy initially. That is because Mr J has not raised this as a complaint with the bank and given it time to reply. If Mr J wants to do this he should contact the bank. I realise that this might be inconvenient but it is only fair to give the bank a chance to respond to this fresh complaint.

Having looked at the policy I can see that it clearly explains that a claim for unemployment is limited time wise. The relevant clause in this case is that a claim for monthly payments will only be made for 12 months. The policy paid the equivalent of 12 payments into Mr J's account between July 2009 and June 2010, so I am satisfied that the terms and conditions for the insurance were honoured.

The bank wrote to Mr J in June 2010 to say that the last claim payment had been made. That should have alerted Mr J to the fact that no more payments would be made and that he still owed money on his loan. When Mr J made no payments, the bank transferred his account to a collections agent in late 2010. I am satisfied that the bank was entitled to do this given that Mr J had not paid. Mr J says the bank should have queried why, as the policy had stopped paying, he continued to send evidence of his unemployment. That might have been

a good thing for the bank to do – but it would not mean that Mr J did not owe the money. So I do not find that this lack of communication has affected Mr J financially.

Mr J says he has a statement showing a nil balance. That is, I am satisfied, a statement produced when the bank cleared the debt off its own books when it transferred the debt to the collections agency. It does not mean that Mr J no longer owes the bank the money.

I can see that Mr J corresponded with several collections agents, and if he is unhappy with the way they behaved he can complain separately about that. But I am satisfied that Mr J had the information to show that the insurance would not clear his debt in full. That means that Mr J will need to make arrangements to repay the debt. Mr J says he is struggling financially, and so I would urge him to contact the collections agent handling his debt and talk to them, as it is obliged to respond positively and sympathetically. Mr J might want to ask one of the free debt management services to help him with that.

my final decision

My decision is that I am unable to uphold this complaint

Susan Peters
ombudsman