

The complaint

Mr C has complained that The Royal Bank of Scotland Plc ("RBS") mis-sold him fee-paying Royalties and Royalties Gold packaged accounts (later renamed as a Select Platinum account) in July 1999 and June 2002, respectively.

Mr C has given a number of reasons why they were mis-sold. These include that he was led to believe he needed the Royalties account to obtain an overdraft. Mr C also questions why the Royalties Gold account was sold to him and has suggested he was mis-led into agreeing to it either to increase his overdraft limit, or perhaps to take out a loan.

What happened

RBS upheld Mr C's complaint about the sale of the Royalties account and refunded the account fees Mr C paid for that account. RBS also paid Mr C 8% simple interest per year, less deductible tax, on the account fees that were refunded.

RBS did not uphold Mr C's complaint about the sale of the Royalties Gold account.

One of our adjudicators assessed the complaint. He acknowledged that the complaint about the sale of the Royalties account looks to have been resolved, so assessed whether the Royalties Gold account had also been mis-sold. He concluded that the Royalties Gold account was not likely to have been mis-sold.

Mr C disagreed with the adjudicator's assessment about the sale of the Royalties Gold account, so the matter was referred for an ombudsman's decision.

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.

We've explained our approach to complaints about packaged accounts on our website, and I've used that to help me decide this complaint. I think it may also help to explain that where matters are in dispute, and evidence is incomplete, I need to decide what I think most likely happened, based on everything that is available.

Having read through Mr C's testimony, I have to say that from the outset Mr C's comments about the sale of the Royalties Gold sale appear to be more hypothetical, rather than based on his actual recollections of the sale. So I'm not able to place as much weight on Mr C's testimony, as I would've done had he recalled the specifics of the sale. Although having said that, given that the sale took place over twenty years ago, it is understandable if Mr C can't recall exactly what happened.

Nevertheless, I have considered all of the evidence that is available, and considered these alongside the reasons why Mr C suggests that the Royalties Gold account may've been mis-sold. But I don't think there is enough evidence to be able to say that the Royalties Gold account was more likely than not mis-sold.

I understand the main reason why Mr C says the Royalties Gold account fees should be refunded, is because he says he was led to believe he needed the earlier Royalties account to get an overdraft – and RBS upheld that part of his complaint. Mr C says that he still

thought his ability to obtain an overdraft was governed by him having a packaged account when the Royalties Gold account was sold to him.

But I don't think this means that the Royalties Gold account therefore must have been mis-sold as well. I say this because if Mr C didn't want a packaged account and only agreed to it in the mistaken belief he needed one to get an overdraft, then I would've expected him to have continued with the cheapest packaged account, rather than agree to an even more expensive one.

Mr C has suggested that the Royalties Gold account may've been sold to him on the basis that he needed it to increase his overdraft limit, or perhaps to obtain a loan. But Mr C didn't change his overdraft limit either around the time he upgraded, or indeed for many years after the upgrade. Mr C did however apply for a loan with RBS in June 2002, and as the loan application looks to have taken place around the same time as the account upgrade, I think the two events were likely to have been linked.

Mr C has suggested that he may've been misled into thinking that he had to upgrade so that he could obtain the loan. However, at the time, one of the features of the Royalties Gold account was that it offered discounts on personal loans.

So in the circumstances, I think it's just as likely, if not more so, that Mr C agreed to upgrade to the Royalties Gold account so that he could obtain a lower rate of interest on his loan application, rather than because he thought he had no choice in the matter. I also note that the account included an increased (compared to the Royalties) interest free overdraft of up to £250 with preferential terms. And based on what Mr C has said about his overdraft at the time, I think this may've been another feature that he was attracted to.

I note that the adjudicator concluded that the Royalties Gold account was most likely sold on a non-advised basis. This was based on RBS saying that it, generally speaking, didn't sell packaged accounts on an advised basis in 2002. And there was nothing else to indicate that it was sold on an advised basis.

Mr C disagrees with this. He says that banks are notorious for selling products to account holders when they visit branch. But just because a bank may sell a product to a consumer (as opposed to the consumer asking for the product), doesn't mean that the product was sold on an advised basis. For the Royalties Gold account to have been sold on an advised basis, I would expect RBS to have assessed Mr C's insurance needs and then recommended the account because it met at least some of his needs. Asking if Mr C would be interested in upgrading to the Royalties Gold account so that he could get a lower rate on his loan application - which is what I think most likely happened - would not amount to it being an advised sale.

Having weighed up the evidence, I've not seen anything (beyond Mr C's hypothesising) to suggest that the account was sold on an advised basis. Therefore, RBS was not required to have checked if the account features were appropriate for Mr C's specific circumstances.

RBS was required however, to give Mr C important information about the account so that he understood what he was agreeing to.

Due to the lack of evidence that is available I don't know what information Mr C was given during the sale. But I do think it's likely he was given at least some information about the account, otherwise I doubt Mr C would've agreed to upgrade (again) if he didn't know anything about the account. Furthermore, given that RBS has only limited records from 2002 and Mr C doesn't remember the sale, it's entirely possible that Mr C was provided with enough information about the account so he could make an informed decision about whether to upgrade or not.

Mr C has said that he didn't need the insurance benefits that were included with the account and gives this as another reason why he says it was mis-sold. But as outlined above, it seems to me that Mr C likely agreed to the account largely for the banking benefits it came

with. So I doubt Mr C's decision to agree to the Royalties Gold account would've been affected, had RBS given Mr C more information about insurance benefits that he said he didn't need. And as the account was sold as a package, Mr C was unable to pick and choose what it came with. So it was not the case that he could've asked to keep the banking benefits and opted out of the insurance benefits.

Finally, I note that Mr C asks at what point could he reasonably have known that he did not require a packaged account to have an overdraft? I have considered Mr C's point, but I don't think what he says means that the Royalties Gold account fees should also be refunded. I say this because, even if Mr C still thought he needed his previous Royalties account to have his existing overdraft, the evidence indicates he likely agreed to upgrade his account again - and therefore agreed to pay the increased monthly fee - because he was attracted to a specific feature or features of the account, rather than because he thought he had no choice in the matter.

So taking everything into account, I'm unable to say, albeit on balance, that the Royalties Gold account was mis-sold. It therefore follows that I don't think RBS should refund the Royalties Gold account fees to Mr C.

My final decision

Because of the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 20 October 2023.

Thomas White
Ombudsman