

## **The complaint**

Mr R complains that Bank of Scotland plc (BoS) did not process refunds for him under the Direct Debit Guarantee (DDG) scheme.

## **What happened**

Mr R asked for direct debits to be refunded under the DDG scheme for two companies, one because he said he never set up the direct debit, and one because they were taking an incorrect amount (they were taking £200, not £100), but he says BoS rejected the requests on the basis that he should keep better track of his statements. Mr R says that during the timeframe he was claiming for, he did not have access to online banking or their application (app), so he was unable to access his statements. He also had health issues which affected him, so he only had access to his statements in 2022 when he set up online platforms like the app. He also asked for a Data Subject Access Request (DSAR). Mr R made a complaint to BoS.

BoS did not uphold Mr R's complaint. They said his DSAR's had been actioned and issued to him. BoS said it was determined an error wasn't present in the collection of the direct debit payments, which meant they weren't eligible for a refund under the DDG. Mr R brought his complaint to our service.

Our investigator did not uphold Mr R's complaint. She said the refund for the direct debit which Mr R says he never set up was rejected as this had been set up with his name and details, so BoS considered these details would've been provided to the business. So in this instance this would be considered a contractual dispute between Mr R and the company and the DDG doesn't consider contractual disputes. She said that on the other DDG claim, all 20 payments taken as part of the instruction were for the same amount of £200, including the initial payment in April 2013, which didn't indicate an error. Our investigator said his DSAR was responded to and dealt with by BoS.

Mr R asked for an ombudsman to review his complaint. He made a number of points. In summary, he said the wrong amount was being taken from one company and he asked where the proof was that he set up the direct debits, and that there was no evidence BoS had contacted these companies. He said BoS had broken the DDG.

## **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.

Mr R has made a number of points to this service and I've considered and read everything he's said and sent us. But, in line with this service's role as a quick and informal body I'll be focusing on the crux of his complaint in deciding what's fair and reasonable here.

I've looked at the wording of the DDG. It states that *"The Direct Debit Guarantee applies to all Direct Debits. It protects you in the rare event that there is an error in the payment of your Direct Debit, for instance if a payment is taken on the incorrect date, or the wrong amount is*

*collected. It cannot be used to address contractual disputes between you and the billing organisation."*

I've considered whether BoS should have processed the refunds that Mr R asked them to. But in order for BoS to do this, they would need to ensure the criteria of the DDG scheme was met before refunding the money. So I would not expect them to refund the money automatically without checking the criteria was met first. I say this because if they had processed the refunds and the criteria hadn't been met, then this could have caused Mr R difficulty if the funds were re-debited from his account, which would be the likely outcome if the DDG criteria hadn't been met.

Mr R has mentioned about the proof that he set up these direct debits. So what BoS did here as part of their investigations to see if Mr R met the DDG criteria was to review the information they held on record, and they were able to check the details of the direct debit against a report which held the direct debit details. This report confirmed the direct debits were in Mr R's name. So I'm satisfied that this would indicate that Mr R had provided authority to the companies involved.

In relation to the wrong amount being taken on one of the direct debits, the information shows that since the first payment had debited the account in April 2013, the payment had always been for £200 a month. As the information shows on the "*How to set up a Direct Debit*" page on the DDG website, that "*The organisation will give you advance notice of collection dates and amounts, whether you set up a Direct Debit by telephone, online or using a paper form. Check these details are correct and contact them straight away if you want to query anything.*"

So on the balance of probability, the organisation would have given Mr R advance notice of the collection amount prior to the first payment being taken. But as this was over ten years ago, records are unlikely to be held for the communication Mr R was sent. As Mr R has said this payment should have been for £100 a month and not £200 a month, then it would have been proportionate for him to check the details were correct initially and contact the company straight away if he wanted to query them. But he should have been aware of this when his statements showed the direct debit leaving his account.

Although I've considered what Mr R has said about his health, he told BoS information about his health issues in 2015 and 2018, so it would appear that Mr R could have contacted BoS prior to 2015 when the direct debit had been debiting his account since April 2013. Although Mr R has said he didn't have access to his statements, I've reviewed the customer notes and there is no entry to show Mr R informed BoS that he couldn't access his statements online and that he requested paper statements. But the notes show that between 27 November 2014 and 26 November 2015, that Mr R cancelled six direct debits/standing orders. And he contacted BoS to cancel 13 direct debits/standing orders between 26 February 2016-25 November 2018, which indicates he was able to manage his account and should've been aware of the activity on his account.

I've considered what Mr R has said about BoS not contacting these companies and they have broken the DDG. But BoS are not required to contact these companies if the information available to them indicated Mr R didn't meet the criteria for a refund under the DDG scheme. And I'm persuaded that the information that BoS held pointed to a contractual dispute with the companies, and I don't find that they have broken the DDG. As contractual disputes aren't covered under the DDG scheme, then Mr R will need to speak to these companies directly. I can also see that BoS actioned his DSAR. So it follows I don't require BoS to do anything further.

**My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 7 August 2023.

Gregory Sloanes  
**Ombudsman**