

## **Complaint**

Mr S has complained that The Royal Bank of Scotland Plc ("RBS") unfairly continued to applying charges to his overdraft when he was in financial difficulty.

## **Background to the complaint and my provisional decision of 16 February 2021**

One of our investigators looked at this complaint and didn't think RBS had done anything wrong or had treated Mr S unfairly. Mr S disagreed and asked for an ombudsman to review his complaint.

On 16 February 2021, I issued a provisional decision setting out my initial findings on Mr S' complaint. I won't copy that decision in full, but I will instead provide a summary of my findings.

I started by saying that RBS will be familiar with all the rules, regulations and good industry practice we consider when looking at whether a bank treated a customer fairly and reasonably when applying overdraft charges. So I didn't consider it necessary to set all of it out.

Having carefully considered everything provided, I thought that RBS acted unfairly when it continued charging overdraft interest and associated fees from August 2016. By this point, I thought that it was evident Mr S' use of his overdraft had become unsustainable. A cursory look at his statements leading up to this period showed that he'd only spent short sporadic periods with a credit balance. And on a couple of occasions this was because Mr S had taken payday loans. I could also see a consistent pattern of gambling transactions from the account too.

I thought that in August 2016, the position started to worsen and Mr S also started incurring returned items and overlimit fees because of these issues. And at that point, I thought that RBS should have stopped providing the overdraft on the same terms and treated Mr S with forbearance rather than adding even more interest, fees and charges on the overdraft.

All of this meant that I found that RBS should have realised Mr S was experiencing financial difficulty, wasn't using his overdraft as intended and shouldn't have continued offering it on the same terms. As I thought RBS didn't react to Mr S' overdraft usage and instead continued charging in the same way, I found that it failed to act fairly and reasonably.

As Mr S ended up paying additional interest, fees and charges on his overdraft at a time when he was already experiencing difficulty, I thought that Mr S lost out because of what RBS did wrong and that it should put things right.

Finally I set out a method of putting things right which I thought addressed RBS' failings and Mr S' resulting loss.

## **Responses to my provisional decision**

RBS didn't provide anything for me to think about or ask for any additional time to do so.

Mr S said that the extended period this went on for had a detrimental effect on any kind of credit, his mental health and even put pressure on his relationship.

## **My findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've thought about what Mr S has said. I can ask a business to compensate for any additional (or consequential) losses that a consumer might've suffered, or if they've been inconvenienced. But only usually where there's a clear and direct link between what the business did wrong and any additional losses suffered and/or what the business has done to put things right doesn't reflect how much the consumer has been inconvenienced.

I've carefully thought about Mr S' arguments. But I'm sorry to inform him that I don't think that there's a strong enough argument for me to say that RBS continuing to provide him with an overdraft directly caused additional losses to Mr S which merit additional compensation.

I'm upholding Mr S' complaint because I think RBS should have withdrawn his overdraft as it ought to have realised that he was already in financial difficulty. And if RBS had done this, as I think it ought to have, then Mr S' ability to obtain credit elsewhere would have been impacted. Equally while I'm sorry to hear that Mr S has had mental health difficulties and additional pressure on his relationship, it's difficult for me to say that RBS' actions are responsible for this. I say this while mindful of the nature of the transactions I think RBS ought to have been aware of when allowing Mr S' overdraft to be used in the way it was.

So overall and having considered Mr S' further points, I've not been persuaded to alter the conclusions that I reached in my provisional decision of 16 February 2021. I'm still partially upholding Mr S' complaint and directing RBS to put things right in the way I've set out below.

## **Fair compensation – what RBS needs to do to put things right for Mr S**

Having thought about everything, I think it's fair and reasonable in all the circumstances of Mr S' complaint for RBS to put things right by:

- Reworking Mr S's current overdraft balance so that all interest, fees and charges applied to it from August 2016 onwards are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made RBS should contact Mr S to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Mr S's credit file, it should backdate this to August 2016.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr S along with 8% simple interest† on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then RBS should remove any adverse information from Mr S's credit file.

† HM Revenue & Customs requires RBS to take off tax from this interest. RBS must give Mr S a certificate showing how much tax it has taken off if he asks for one.

### **My final decision**

For the reasons set out above and in my provisional decision of 16 February 2021, I'm upholding Mr S' complaint. The Royal Bank of Scotland Plc should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 31 March 2021.

Jeshen Narayanan  
**Ombudsman**