

Complaint

Mr O is unhappy Bank of Scotland plc (“BOS”) failed to accept what he considered a reasonable partial settlement proposal to repay the balance on his credit card after he ran into difficulties making his payments.

Mr O is being assisted with his complaint by his father Mr O Sr.

Background

In October 2019, Mr O Sr, with Mr O’s permission, contacted BOS to say that Mr O was struggling with the debt on his credit card as a result of a change in his employment situation. Mr O Sr also told BOS that Mr O had been suffering from mental health issues.

After further discussion, Mr O Sr wrote to BOS’ Customer Priority Team (“CPT”) asking for the balance on the account to be reduced to £1,600.00 and agree to a repayment proposal with the intention to clear the balance within a year. BOS didn’t agree to this and Mr O Sr formally complained. BOS didn’t uphold the complaint as it didn’t believe that it had treated Mr O unfairly. Mr O Sr remained dissatisfied and referred the complaint to our service.

One of our investigators looked into Mr O’s concerns. He didn’t think BOS had done anything wrong or treated Mr O unfairly and so didn’t recommend the complaint be upheld. Mr O Sr, on behalf of Mr O, disagreed and so the complaint was passed to an ombudsman for a final decision.

My findings

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

Having considered everything provided, I’ve decided not to uphold Mr O’s complaint. I’ll explain why in a little more detail.

It isn’t in dispute BOS was made aware of Mr O’s financial difficulty in October 2019. And once a lender is told that a borrower is experiencing financial difficulties we would expect it to exercise forbearance and due consideration, in line with its regulatory obligations.

In such circumstances, ultimately, we’d expect a lender to listen to a borrower, get an understanding of their circumstances and then assess the most appropriate way to move forward. However, that doesn’t automatically mean writing off balances, permanently freezing interest and/or accepting a partial settlement.

In this case, BOS applied a temporary interest freeze when it was first notified of Mr O’s difficulties. This was to provide some breathing space while more appropriate longer-term options were explored. At this stage, it also sent Mr O an income and expenditure form and a medical questionnaire to complete. The income and expenditure information was returned to BOS but a completed medical questionnaire wasn’t.

As the income and expenditure information provided showed that Mr O had sufficient disposable income to repay the remaining balance within a reasonable period of time (which is ultimately what any assessment of affordability ought to be based on in the first place), BOS didn't accept Mr O senior's partial settlement offer. Instead it indicated Mr O should return to making his payments as normal as he could afford to do so.

I can understand why Mr O Sr is unhappy with BOS not accepting his partial settlement proposal. This is especially as he feels this refusal didn't recognise or acknowledge the genuine offer to repay most of what was owed. But as the income and expenditure information Mr O provided suggested that he had enough left over to repay the balance within a reasonable period of time (and not just make minimum payments), I don't think BOS' actions were unfair or unreasonable here. I say this particularly because I can't see that BOS insisted on Mr O paying more than he could afford, or insisted on the balance being repaid within an unreasonably short period of time.

I've also thought about what Mr O Sr has said about BOS being inflexible. But its response to the repayment proposal was based Mr O's circumstances and what the information he provided suggested he was able to pay. It also said that it would consider the partial settlement proposal further if medical information was provided.

I can understand why Mr O Sr might have felt this information was unnecessary as obtaining it had the potential to cause additional distress to Mr O. And I'm really sorry to hear about Mr O's mental health issues. I do sympathise with what he's gone through. I would also agree that a lender shouldn't ask for more information than necessary. But given the income and expenditure information suggested Mr O could repay the outstanding balance and Mr O Sr asked BOS to place limitations on Mr O's ability to borrow from it in the future, I don't think it was unreasonable for BOS to request independent medical information here. And as this information wasn't provided, I don't find that BOS' decision to refuse the partial settlement offer proposed by Mr O Sr, to be unfair.

So overall and having considered everything, I don't think that BOS treated Mr O unfairly or unreasonably and this means that I'm not upholding this complaint. I appreciate that this will be very disappointing for Mr O (and Mr O Sr) – especially as he's been waiting some time for this answer. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Mr O's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 15 September 2021.

Jeshen Narayanan
Ombudsman