

## **The complaint**

Miss B complains The Royal Bank of Scotland Plc (RBS) added incorrect information to her credit file.

## **What happened**

Miss B held a current account, with an arranged overdraft, and RBS wrote to her to say it was closing her account. RBS gave Miss B 60 days' notice and said she should repay any overdraft she had before the account closed.

Miss B says she couldn't afford to clear the overdraft in one go, and tried to set up a payment plan, but RBS wouldn't agree one. Miss B's account closed, owing money, and RBS passed this debt out to a debt collector.

Miss B repaid the overdraft, in full, through the debt collector. Miss B then saw RBS had recorded adverse information on her credit file, and she complained.

RBS responded to say the information it had recorded was correct and wouldn't change it. But RBS accepted it had provided some poor service and offered Miss B £100 to compensate for this and offered to refund £8.60 in charges.

Miss B brought her complaint to this service. As part of RBS' submissions to this service it said it had since defaulted Miss B's account. An investigator looked into things and thought Miss B's complaint should be upheld.

The investigator thought the default was unfair as RBS hadn't notified Miss B of its intention to default her account. The investigator also thought RBS should have set up a payment plan for Miss B, as she'd been able to agree one with the debt collector.

The investigator thought RBS should remove the default and any adverse data from Miss B's credit file from April 2022 and pay Miss B a further £150 to compensate her.

Miss B agreed with this outcome. RBS didn't, and said its 60 days' notice letter was clear in the consequences if Miss B didn't pay her overdraft off. RBS also said the requirement for a default notice, as laid out in the consumer credit act (1974) (CCA) didn't apply to overdrafts.

Unable to reach any agreement, Miss B's complaint was referred to an ombudsman to decide things.

## **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.

RBS is entitled to end its relationship with Miss B and tell her it's closing her current account.

This is laid out in the terms and conditions of the account, and I think RBS gave Miss B sufficient notice of its intention to close her account.

But Miss B isn't complaining about the closure of her account, she's complaining about the lack of help in repaying the overdraft and how the repayment is recorded on her credit file.

RBS has said it wouldn't have looked to enter into a payment plan with Miss B because it was closing her account. But I don't think this is fair. Miss B's explained to this service she couldn't repay her debt in one go, but could pay it off over a short period.

RBS has an obligation to treat consumers experiencing financial difficulties with forbearance and due consideration. Among the options open to RBS is agreeing a payment plan.

Regardless of the fact RBS was closing Miss B's account, not exploring a payment plan with her, isn't, I think, treating Miss B fairly. When Miss B did agree a payment plan, with the debt collector, she paid off the debt in five months, a relatively short amount of time.

I think RBS should have agreed a payment plan with Miss B.

RBS has said it didn't send a default notice prior to applying a default to Miss B's account. RBS has also said sections 87 to 89 inclusive of the CCA, which lay out the rules around defaults, don't apply to overdrafts.

The consumer credit source book (CONC), in section 5C.5.1, says 'An "arranged overdraft" is the running-account facility provided for in an authorised non-business overdraft agreement that is a regulated credit agreement.'

The CCA mentions running-account credit in section 10, Part II, where other regulated agreements are defined.

And section 61B of the CCA says businesses have a duty to supply a copy of any overdraft agreement. I'm unsure why this provision would exist if overdrafts weren't regulated agreements.

Overall, I'm satisfied Miss B's overdraft was regulated by the CCA.

Section 87 of the CCA says 'Service of a notice on the debtor or hirer in accordance with section 88 (a "default notice") is necessary before the creditor or owner can become entitled, by reason of any breach by the debtor or hirer of a regulated agreement (a) to terminate the agreement'.

Since I'm satisfied the overdraft was a regulated agreement, and RBS was looking to terminate the agreement, by registering a default, I'm satisfied sections 87 to 89 apply.

I think RBS had a requirement to send Miss B a default notice, laying out what she owed, what she needed to repay and what the consequences would be if she didn't repay.

And I think this would have made a difference, I think Miss B would have either repaid the debt or entered into a payment plan, acceptable to both parties, to avoid the default.

I don't think RBS fairly defaulted Miss B's account. RBS might be entitled to start the default process again, if Miss B still owed it money on her overdraft. But Miss B has repaid the debt, so I think the fair outcome would be for RBS to remove the default.

Miss B was able to repay her overdraft within five months once it had been passed to the debt collectors. Had RBS told Miss B it would default her if she didn't pay, I think Miss B would have paid sooner.

Depending on how quickly Miss B repaid her overdraft would also affect whether it was fair for RBS to record the payment plan as an arrangement to pay on her credit file, or simply record the account as being up to date.

When RBS didn't give Miss B a chance to avoid the default, it also stopped Miss B entering into a payment plan that may not have adversely affected her credit file.

I've seen a copy of Miss B's credit file, and she has no other adverse information or late payments to other lenders, or to other lending with RBS. I think Miss B would have taken steps to ensure her credit file stayed free of adverse information.

In the individual circumstances of Miss B's complaint, I don't think it's fair for RBS to record an arrangement to pay, or any other adverse information, in respect of her current account on her credit file.

Miss B has explained the impact the default's had on her. Miss B has said she's been very worried about her ability to continue renting as her current landlords carry out regular credit checks. Miss B also said the default's having a massive impact on her day to day.

I accept this, and I think the existence of this default will have had a very distressing impact on Miss B.

RBS had previously offered to compensate Miss B £100, and refund £8.60 in charges. But at that point RBS hadn't defaulted Miss B's account.

Miss B's been caused further distress after RBS' initial offer, so I think RBS should compensate Miss B further.

Overall, I think a total payment of £250, to compensate Miss B for the poor service RBS provided in not agreeing a payment plan and the effect the default's had on her is fair in the circumstances.

### **My final decision**

My final decision is I uphold this complaint and The Royal Bank of Scotland Plc, in respect of Miss B's current account, should:

- remove the default from Miss B's credit file
- remove any adverse information it's added to Miss B's credit file since April 2022
- refund Miss B the £8.60 of charges it's already offered
- pay Miss B a total of £250 in compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 18 August 2023.

Chris Russ  
**Ombudsman**