

The complaint

Mr S complains that he was recently contacted by The Royal Bank of Scotland Plc to say he was still on a mortgage with a former partner, from many years ago. Mr S said that RBS' notification of arrears was wrong, and very distressing, and it then gave him incorrect advice.

What happened

Mr S has also complained to our service that he remains named on, and jointly and severally liable for, this RBS mortgage alongside his former partner. I can see that our service has considered that point separately for Mr S, so I won't look at that issue here.

Mr S complains that arrears on the mortgage have now affected his credit file, which meant he'd been unable to purchase a home for his family. He said he got RBS' communication, telling him about these arrears, out of the blue, after many years with no contact. That letter wrongly stated that arrears on the mortgage were over £44,000, which Mr S said was very frightening. In fact they were a little over £1,000.

Mr S said he then received notice of a payment agreement on the mortgage, which he hadn't agreed to. And he said he'd received advice from RBS that he may be removed from the mortgage in six months' time if he paid off the arrears, but then RBS said everything would depend on an affordability assessment on his ex-partner.

Mr S said this had a severe impact on him. He said it had made him ill. He'd had to pay expensive legal fees, and had paid arrears that weren't his to stop him being held to this mortgage. Mr S wanted RBS to take him off the mortgage (which I've explained I won't comment on here). And he also wanted RBS to pay more than the £100 in compensation that it had offered him.

RBS didn't think it had done anything wrong. It said Mr S hadn't updated his correspondence details when he moved out of the mortgaged property, some years ago. So he hadn't previously received information about the mortgage. But his name was still on the mortgage, and he was still jointly and severally liable for the debt. So RBS said it had informed credit reference agencies ("CRAs") of this debt in line with the terms of the mortgage.

RBS said it didn't need Mr S's agreement to set a payment plan to clear the arrears on the mortgage. It could reach that agreement with one of the parties named on the mortgage. RBS did accept that it made a mistake when it contacted Mr S about the arrears. It said the mortgage balance and arrears figures had been transposed, and it apologised for this. RBS said it would pay Mr S £100 in compensation.

Our investigator thought this complaint should be upheld in part. She said it would have been distressing for Mr S to get a letter saying he had mortgage arrears of over £44,000. She noted Mr S told us this affected his health. And he said it was some time before this mistake was rectified. Our investigator said RBS should increase its award by a further £250 in addition to the £100 it had already offered for this.

Our investigator said RBS hadn't clarified the effect that waiting 6 months after clearing the

arrears would have on the arrears. She said it was unlikely that any payments towards the arrears or outstanding payments would remove Mr S's liability for the outstanding amount. She thought this would have caused further confusion to Mr S, and she recommended that RBS pay £50 for this.

Our investigator said Mr S also complained that RBS hadn't been back in touch, after he'd complained to our service. Our investigator said it wasn't uncommon for a bank to pause its discussions with a customer while our service was considering a complaint. She said she couldn't say RBS acted unfairly here.

Our investigator recommended that RBS pay Mr S a further £300, bringing his total compensation to £400.

RBS agreed to this. But Mr S didn't. Much of his response concerns the issue of whether he could be removed from the mortgage, which I've explained I won't discuss further here. But Mr S also said the letter he got from RBS had a major error, so much so that he felt the most stress and distress he had ever felt. Mr S said he sought immediate legal advice and had many sleepless nights over losing his life savings due to this error.

Mr S said there seemed to be some confusion on what had been said about arrears. Mr S told us he phoned RBS on several occasions. He said it had specifically advised him that if he paid the arrears of approximately £1,200, this would give the other party the chance to request that he come off the mortgage, as they would then be accepted into a six month period of "clean banking." Mr S said RBS told him he would then be likely to come off the mortgage. But Mr S said after he'd paid, RBS then said it couldn't confirm whether or not he would be taken off the mortgage, which added further frustration. So Mr S said he'd paid £1,200 for nothing, and was still on the mortgage. He didn't accept that £50 made up for this. This case was then passed to me for a final decision.

I then reached my provisional decision on this case.

My provisional decision

I issued a provisional decision on this complaint and explained why I did not propose to uphold it. This is what I said then:

I haven't been able to see that RBS had previously been notified by Mr S of a new address, after he left the mortgaged property. And Mr S hasn't suggested he did this. So I don't think it's RBS' fault if Mr S hasn't previously received information on this mortgage.

I also think that, whilst Mr S's name remains on this borrowing, it's reasonable for RBS to include his name, when it informs CRAs of the status of this mortgage. That includes any arrears.

I think it's reasonable for RBS to have worked with the other person named on this mortgage to set up a payment plan to clear the arrears. I don't think it's unfair or unreasonable for RBS to have established this without seeking Mr S's agreement. Mr S was still able to clear the arrears himself if he didn't want this payment arrangement to show on his credit file, and he told us he has since done so.

I understand that RBS accepts it made a mistake when it first contacted Mr S about the mortgage, because it incorrectly set out the arrears. I accept that this would have been extremely distressing for Mr S, and for that reason, I think RBS should increase its offer of compensation in this case to make a total of £400.

I don't think it's unreasonable for RBS not to enter into detailed discussion with Mr S of issues he's referred to our service, while those issues are with our service. It can be confusing if there's a direct exchange between the bank and a customer while our service is considering a complaint. So I don't think that RBS has to do anything to make up for this.

On Mr S's complaint that he was misled by RBS into thinking his name would be removed from the mortgage if he paid arrears of £1,200, I haven't reached the same conclusion as our investigator.

I've considered the notes that RBS has of its calls with Mr S, and I can see that on 30 June 2022 he said he hadn't previously been told the right amount of the arrears. He said if he had, he would have cleared this. Mr S said he would speak to his solicitors about being removed from the mortgage, and RBS said that until any such application was granted, which it might not be, these arrears would still show on his credit file. So I think that at this stage, Mr S was already considering paying the arrears himself. Mr S has told us he was concerned that his job would be affected if he didn't keep a clean credit file.

On 14 September 2022, Mr S spoke to RBS again, and asked if he could be taken off the mortgage if he agreed to a change in the interest rate. RBS was very clear then that Mr S's former partner would need to apply if he was to be taken off the mortgage, and RBS set out this process for him. It explained this couldn't be done in return for his agreement to a rate change. So I think Mr S was aware of the process for being removed from the mortgage then, if he hadn't been before.

On 10 November 2022, Mr S rang to check whether the payment plan was in place and payments had gone through. He said he would be paying the arrears soon.

On 21 November 2022, Mr S said that he was paying the arrears. He said he didn't want to, but had to because of his credit file.

I haven't been able to see that Mr S had a discussion with RBS where it suggested paying the arrears on this mortgage would help him be removed from the mortgage. And Mr S has told RBS, and us, that he couldn't have arrears showing on his credit file. So I don't think it's most likely that Mr S paid off the arrears on the mortgage because he was misadvised by RBS. I think it's most likely that he paid off the arrears primarily because he was concerned about the effect these would have on his employment. So I don't think this part of Mr S's complaint should be upheld.

I do, however, think this has been a distressing experience for Mr S, and I think it was made much more so by RBS' unfortunate mistake over the amount when it first contacted him about the mortgage arrears. For that reason, I've explained that I think RBS should pay Mr S a total of £400 in compensation. I understand that RBS may already have paid £100, so I'll allow RBS to take account of any payment of compensation its already made in this case, when it's paying this award.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Both sides replied.

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 replied to say that it agreed with my findings, as it appreciated that receiving the letter with a mistake over the arrears amount would have been distressing for Mr S.

Mr S replied to disagree. First, he said I hadn't specified in my decision how long ago he took out this mortgage, and he thought that was highly relevant. I should like to reassure Mr S that, although I may not include detail like this in a published decision, I have taken full account of just how long ago the key events here happened, in reaching my decision.

Mr S wanted to stress that he'd signed paperwork to confirm his removal from the mortgage many years ago, when he moved out, and he said he'd provided screenshots showing the other party confirmed this. He said the other party must have known he hadn't been taken off the mortgage, as they would have been receiving statements with his name on. And he thought the other party would also have had an obligation to tell the lender if a new partner was living at the property when Mr S moved out.

Mr S said despite all this, he hadn't had anything to tell him he was still on the mortgage until May 2022. Mr S said he'd bought and sold a house in the intervening time, with no mortgage showing on his credit reports, even though he now understood the joint party had already missed payments. So Mr S felt RBS was wrong to issue a final arrears and notice of possession letter, when he was being made aware of an entirely unknown debt.

Mr S said because he wasn't aware of still being on a mortgage, he wouldn't have been making RBS aware of his changes of address. And he said he'd never been asked to do so.

Mr S also said he thought I was making assumptions about why and when he'd paid the other party's arrears. He said the other party made a payment arrangement when they'd told him they were applying for transfer of title. Mr S said he understood the other party had applied for a rate change (which he said he hadn't agreed) and a debt management plan which would hold him to the mortgage for between 18 months and 2 years. Mr S said this payment plan is still showing on his credit file and will be for 6 years, and Mr S said he felt everyone accepted this would mean he couldn't get a mortgage, despite never having missed payments of his own.

Mr S said he disagreed that RBS was clear about the rate change. He said RBS knew he was complaining about being tied to the joint account holder, so why would he then apply for a rate change? Mr S said he wouldn't sign a product transfer, as this would make him liable for the mortgage.

Mr S also said he disagreed that RBS had made things clear about coming off the mortgage, he said he spoke to three different people who told him he might be able to come off the mortgage once the arrears were paid, or after a six month period of clean banking, or they weren't sure at all. Mr S said he was still no further forward, and still didn't know if the joint party would ever be able to remove him.

Mr S said he found it staggering that our service was quite happy for RBS to put his complaint on hold for 8 months whilst we consider this case, despite the ongoing consequences to him. He was still very unhappy RBS had offered no further clarification.

Mr S said that on the phone call on 30 June 2022, he was considering paying the arrears when he found out they were smaller than he first believed, and he said I'd correctly noted that his job was under threat. He said his solicitor was advising him to take legal action during this time, and he paid the arrears against legal advice. Mr S said he did this because he was advised in November 2022 by RBS that this would allow the joint mortgage holder to

apply for a transfer of title. Mr S said this advice changed when the arrears were paid, and RBS told him then it would take at least six months before he could come off the mortgage. But he said RBS was also telling him that the payment plan would have held him to the mortgage for 18 months, which he didn't want.

Mr S said he didn't think RBS had treated either party fairly and its communication had been below par throughout his dealings with it. Mr S said he didn't understand how this wasn't clear from information RBS had supplied.

I understand that this has been a deeply frustrating experience for Mr S, and I'm sorry that I'm still not able to give him the response he wants. However, this is a complaint brought by Mr S alone. We don't have the permission of the other party named on the mortgage to look into Mr S's complaint. And that limits what it's appropriate for our service to look into.

I cannot share here any personal information about the third party who is also named on this mortgage. And many of the issues which Mr S is raising now would depend on what was or was not said or done, by this third party. So I'm sorry to have to tell Mr S that I'm just not able to look into those issues here. I can't comment on whether or not RBS was asked by that third party to take Mr S off this mortgage. And I can't look at what RBS was or was not told by this person, about who was living in the property.

Although I haven't listened to all the calls that Mr S had with RBS, I do think it's likely Mr S's communications with RBS have been affected by the same problem, that RBS isn't able to share personal information about the third party with Mr S. And of course, RBS doesn't know what the third party may or not do in future. I think this must make RBS' communications with Mr S difficult, and I appreciate this would be frustrating for Mr S.

I have looked into the issues that I think our service is able to consider here.

I have been able to reach the conclusion that it's not RBS' fault that it continued to write to Mr S at the property address, because RBS has told us it received no notification of a new address from Mr S, and Mr S hasn't suggested that he offered this. I think that lack of an up to date address is likely to be why this mortgage, and any previous missed payments, haven't previously shown up on Mr S's credit file.

Because Mr S hasn't been in touch with RBS for some time, I appreciate that it would have come as a shock to suddenly be contacted about the arrears. I think RBS' mistake over the amount owed would have compounded this, which is why I thought it would be fair and reasonable for RBS to pay Mr S more compensation than it had previously offered.

I haven't been able to see that RBS had promised Mr S he could come off the mortgage if he paid the arrears. Its internal notes suggest it had made clear there could be no guarantee of this. And I still think Mr S paid the arrears on the mortgage mainly because, as he acknowledges, his job was under threat. Mr S said he'd ignored the legal advice he received, when he paid the arrears. That makes me think that securing his job against this threat was extremely important to Mr S. So it seems most likely that, even if RBS' communications with Mr S had been exemplary, he would still have been likely to have made this same decision, so he would no longer have concerns about his employment.

Mr S also said he was unhappy that RBS had effectively paused everything while this complaint was with our service, and we'd let RBS do that. But Mr S hasn't suggested that he's waiting for RBS to clarify issues other than those our service is considering now. I'm sorry if it's taken longer for our service to deal with Mr S's complaint than either he or we would like, but I would like to reiterate that it's not wrong for RBS to have deferred to our service, while this complaint was being considered by us.

For these reasons, I haven't changed my mind about this case. I'll now make the decision I originally proposed.

My final decision

My final decision is that The Royal Bank of Scotland Plc must pay Mr S a total of £400 in compensation. The Royal Bank of Scotland Plc can count towards that amount, any payment of compensation it has already made to Mr S for this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 17 October 2023.

Esther Absalom-Gough
Ombudsman