

The complaint

Mr R is unhappy with how a personal loan application was handled by The Royal Bank of Scotland Plc.

What happened

I issued my provisional findings to both parties on 17 October 2023 setting out why I thought Mr R's complaint should be upheld in part, and I invited both parties to provide any further submissions in reply to my provisional decision by 31 October 2023.

The background to this complaint was set out in my provisional decision together with my provisional findings, which are included below and now form part of this final decision.

Background

On 5 December 2022 Mr R applied online to RBS for a £35,000 personal loan, over a term of 84 months. The monthly payment was £588.31. Mr R's intention was to use the loan to consolidate existing debt, and put himself in the position of being better off by £850 per month.

Mr R made the application on the understanding that a credit reference agency (CRA) had said he had been pre-approved for the loan.

On 8 December 2022 RBS requested copies of Mr R's last three months payslips. Mr R responded to this to highlight that he had already told RBS he was self-employed, which is why he had submitted his bank statements. Mr R asked RBS to confirm exactly what they wanted, or call him at any time. Mr R provided his contact number.

RBS again asked for Mr R's payslips. Mr R replied to say he was self-employed as he'd already said. Mr R submitted he had tried to call RBS and email them as he was happy to provide whatever information was required. Mr R said he had income of £15k per month and £8k of this was recurring, as shown on his statements. Mr R asked RBS to call him if they needed anything.

On 12 December 2022 RBS asked Mr R for copies of his completed SA302/ personal tax returns for the years 2021 and 2022 respectively. Mr R responded to say he'd attached the necessary documents.

RBS then asked again for Mr R's SA302/ personal tax returns for the same years. Mr R replied and said they were attached. Mr R also explained that due to moving into office premises in the previous year he had spent a significant amount developing the property. He explained that while his turnover had increased, because of the development and capital allowances, his profit showed as lower. Mr R also provided a forecast of his expected turnover for the following year and expected increased profit and asked RBS to take this into consideration.

The following day RBS again asked for Mr R's SA302/ personal tax returns for the same

years. Mr R once more responded to say he'd sent the documents the day before and asked RBS to call him and explain exactly what was needed. Mr R noted the application had been ongoing for 10 days now and that he was being repeatedly asked for the same information. Mr R said he was happy to provide what was needed, but said it was frustrating being asked for the same information and asked RBS to call him. Mr R provided his contact number again.

However, RBS once more asked Mr R for the SA302/ personal tax returns. Mr R again explained how 2021-2022 was an exceptional year, due to taking on office premises so that his income now is significantly higher than it was on his last tax return. Mr R pointed out he was managing all his financial commitments, including the existing loan with RBS. Mr R said that clearing the existing RBS loan and other commitments meant his monthly outgoings would reduce by £850 per month. Mr R asked again for someone to call him as he felt there was a breakdown in communication given his bank statements showed the level of income his business was generating. Mr R did not feel he could simply keep sending his SA302s every day.

Mr R also added that he had only applied for the loan as he was pre-approved for it, and now he had a needless hard search on his credit file. Mr R said he did not understand the risk here and asked RBS what was required.

A complaint was raised for Mr R around mid-December 2022.

Mr R's lending application was referred internally, and on 4 January 2023 Mr R was informed that his application for a loan had been declined because he had not met the eligibility criteria for a personal loan.

The response to Mr R's complaint was issued by RBS on 7 January 2023. RBS concluded there had been no error on their part. They pointed to their obligation to lend responsibly and that they were required to assess if new borrowing would be affordable by examining a customer's income against their existing commitments as well as considering any dependents and taking the cost of living into account. RBS said Mr R could appeal the lending application with the appeals team by post. RBS acknowledged that Mr R's experience was not indicative of the high standard of customer service RBS strives to achieve and said they would take learning from the errors that had been made.

Before bringing the complaint to our service, Mr R posed four areas of concern to RBS.

- 1) Why advertise a loan as pre-approved, if that is not the case?
- 2) Why ask for information repeatedly, rather than just call to establish the true level of income?
- 3) How can reducing monthly outgoings by such an amount be considered an increased risk, when all other commitments are being met with no problems?
- 4) Where did RBS's lending team believe the money was coming from to meet all his existing commitments if he could not afford them?

RBS did not answer these questions and Mr R brought the matter to our service.

Our Investigator did not uphold Mr R's complaint as they did not think RBS had done anything wrong and Mr R disagreed with the Investigator's findings. As a resolution was not reached, the matter has been passed to me to decide.

Provisional Findings

Before setting out my provisional conclusions in this matter, I note that Mr R had some queries about our service, so it may help him to note the following.

The Financial Ombudsman Service is an alternative dispute resolution service set up to resolve individual complaints based on what is fair and reasonable in the circumstances of each case. It is not, therefore, a consumer champion. Nor is it set up to fine or punish businesses, or request that businesses change their processes or practices – that is the role of the regulator, the Financial Conduct Authority.

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

Having done so, I am minded to reach a different decision to that of the Investigator and uphold part of Mr R's complaint. I'll explain.

It appears to me Mr R's complaint can be broken into the following areas:

- 1) He was pre-approved for the loan*
- 2) RBS's understanding of his business's financial circumstances*
- 3) Trying to engage with RBS during the application process*

Pre-approval

Mr R has confirmed he saw that he was pre-approved for the loan via credit reference agency (CRA) sites. His previous experience of being pre-approved had been positive, and he had no reason to believe in this instance the same would not apply. Mr R said he wouldn't have submitted an application, but for this assurance.

This forms a large part of Mr R's concerns given the inconvenience and upset applying for the loan has created for him, as well as the hard search now showing on his credit file.

As I'm sure Mr R is aware, CRAs hold a range of information about potential borrowers which lenders use as part of their decision making when agreeing to offer credit or not. As well as reporting the information provided to them by data providers CRAs also operate other activities such as direct marketing and lead generating functions, and sometimes offer credit broking services where they might introduce a customer to a finance or credit provider.

The actions of the CRAs here are not something I can hold RBS responsible for. From Mr R's submissions I can see that he has approached the two CRAs involved himself to seek further evidence of what assurances he was given. That will need to be considered separately to this complaint.

CRA's are accountable to the financial regulator – the Financial Conduct Authority (FCA) – and the Information Commissioner's Office (ICO).

I would also add that I've seen nothing to suggest RBS offered Mr R any assurance that the loan would be approved without any checks.

RBS's understanding of Mr R's business's financial circumstances

I've noted Mr R's frustration with RBS and that he has seriously questioned on what basis they have reached their decision not to lend – particularly because this would have put him in a better position on a monthly basis, and he was already servicing his existing financial commitments with no problems.

As our Investigator explained, our service does have limitations as to what matters it can consider. In this case, that includes the lending decision RBS reached about Mr R's application.

Ultimately, it is not for this service to tell a lender whether they should lend to an individual or not – that is for the lender's commercial judgement which I cannot interfere with. But our service can consider whether the individual has been treated fairly and reasonably during that process, and I will make further comments on this later on.

It's relevant to note that RBS does have regulatory obligations to ensure they are carrying out appropriate checks when agreeing to lend, and while there is guidance for RBS to take into account, this does not provide a set list of things that should be checked or in what circumstances lending should be approved.

It seems to me the main issue is to do with Mr R's recorded income. I can see that during the application process Mr R did put forward to RBS more background information about his business over the last year, and what his expectations were on the business's future performance. Mr R doesn't feel that this was taken into account. RBS have said they've provided all the available evidence and submissions in this matter, so there is nothing more for me to consider. In the circumstances, based on the submissions and evidence I do have, I think it's reasonable for me to say RBS were more likely than not aware of what was happening with Mr R's business and this would have been available to them as part of their considerations. That they continued to decide not to lend would, as I've said, be RBS's decision.

I do note from Mr R's submissions that he does – to a degree – accept that he would have found it easier to accept RBS's decision had there been no indication of 'pre-approval' status prior to applying for the loan.

I would also add that RBS have a responsibility to report accurate information about their customers to the CRAs. In the circumstances, as I've not found that RBS have done anything wrong here in terms of the application itself or how the possibility of a personal loan was initially presented to Mr R, it follows that I am not asking them to remove the hard search from Mr R's credit file.

Trying to engage with RBS during the application process

Having reviewed the evidence and submissions made available to me, it does appear that much of Mr R's frustrations stem from an inability to be able to speak to someone from RBS about his application.

Again, I can't interfere with the wider process, systems and controls that a business has in place – that is something for the financial regulator to consider. But I can look to see if RBS treated Mr R fairly and reasonably during the application process. I believe our Investigator may have mis-directed themselves slightly here by considering this as a matter to do with 'complaint handling', which as they did correctly note falls outside of this service's remit.

So did RBS treat Mr R fairly during the course of the application process? On balance, I don't think they did.

I've noted the series of communications above that have been made available to me, and I think it's fair to say that Mr R did disclose he was self-employed – so it's not clear why RBS initially requested payslips from him. Furthermore, it seems reasonable to say that RBS did repeatedly ask Mr R for his SA302s – requests which Mr R responded to each time.

In the circumstances, I think Mr R was engaging with RBS to provide information they were asking for, so I can't say Mr R was acting unreasonably here. When our Investigator put it to RBS, they have said there was evidently a problem with uploading the documentation digitally and they apologised for this.

I realise that on occasion there can be challenges with technology, but I think it's reasonable to say that if the error is repeatedly happening, then it would have been good practice for RBS to have taken better steps to engage with Mr R to obtain the information they required from him. It appears the questions being sent to Mr R were also standard information requests, rather than engaging with Mr R's specific responses. Further, Mr R had – on more than one occasion – provided his contact number for RBS to call him (even though he was also an existing customer). At the very least I think it would have been good practice for RBS to have responded to Mr R's requests for a call, even if it would have been to explain that this was not possible/ part of the application process.

While I accept RBS can decide who they wish to lend to, and I've seen nothing to suggest that they gave an assurance to Mr R that the loan was his without any checking, I do think they could have better engaged with him during the process.

Mr R should note that I cannot fine or punish a business – that is something for the regulator to consider where appropriate. However, the role of our service can take into account whether there has been any impact to an individual in terms of the inconvenience and/ or stress an error may have caused them.

In light of how RBS engaged with Mr R during the application process, I am minded to say RBS should pay Mr R £150 to recognise the added inconvenience and upset caused to him.

Responses to my provisional decision

RBS did not respond to my provisional decision by the deadline set out, and so they've not provided me with any further submissions to consider.

Mr R replied to my provisional findings with additional comments. Having reviewed what Mr R has said, I've summarised his two main points of concern as follows.

- 1) The offer of £150 is low given the amount of time and effort he has spent attempting to sort out this matter. Mr R says that it's taken him away from work so he's incurred a loss of income and he believes that £500 would be a fairer reflection of the trouble caused to him.
- 2) While Mr R accepts the lending decision is ultimately down to the lending organisation, he feels he has been misled – either by RBS or the CRA – into believing the loan was approved without question. Mr R believes the error rests with RBS, but that further analysis should be carried out to understand what's happened between RBS and the CRA he used. Mr R also maintains that he's never been pre-approved for something when that has not been the case.

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.

I understand Mr R's frustrations and disappointment with this matter and that ultimately his expectations were raised and then not met during the course of these events.

I will deal with Mr R's main point of ongoing concern first – pre-approval.

In his additional submissions Mr R put forward that RBS must have given the CRA some indication that he would be pre-approved for the loan. What Mr R has said is reasonable as generally speaking banks and lenders can send CRAs live eligibility scores based on the current information a CRA is holding and their eligibility criteria at the time – it's done using soft searches so as not to impact individual's credit scores.

While this may then provide a reasonable indicator as to a successful application (and so avoid numerous hard searches for people applying for credit), it is still not a guarantee that credit will be provided. The bank or lender, on receipt of a full application, will carry out appropriate checks to ensure they are meeting their regulatory obligations to lend responsibly. Therefore once a full application is submitted a hard search is carried out, and the lender will take the relevant steps in their lending process to assess the application.

Having reviewed the complaint file once more there is nothing in the submissions from either party that showed Mr R was given a guarantee by RBS that his loan would be approved without any such checks or that the loan would definitely be approved.

Mr R's submissions have consistently been that he submitted the application to RBS due to the 'pre-approval' indicator that was provided to him by the CRA. I think it's fair to say that how the CRA may have presented information to Mr R would have been out of RBS's control. So Mr R may wish to pursue a complaint against the CRA separately. This case deals with RBS's actions only in this matter, so I cannot comment on the CRA's responsibilities or their actions here in terms of what happened.

It may also help Mr R to know that a 'hard search' should remain on his credit file for 12 months before dropping off.

I've next considered what Mr R has said about the level of compensation proposed.

I understand Mr R is less concerned with this than the question of 'pre-approval', but I do note his frustration and disappointment with RBS's engagement with him. As I've mentioned, my role is not to fine or punish a business. I can only consider the impact to Mr R as an individual and I'm mindful that a degree of inconvenience is generally to be expected when having to sort out a problem. Deciding a level of compensation of this nature is not an exact science and I have reflected on what Mr R has said. Overall I think the amount I've proposed is fair and reasonable in the circumstances and in line with our general approach to these matters. So I've decided not to increase the award.

To summarise, I've determined RBS's decision not to lend to Mr R was for RBS to decide, and I've not seen anything to suggest RBS acted unreasonably in this regard so that it follows there is nothing for them to put right here in terms of any financial loss, or in terms of the reporting on Mr R's credit file. However, I do think RBS could have better engaged with Mr R during the application process and this presented Mr R with an added layer of inconvenience and upset so RBS should pay Mr R £150 to reflect this.

Putting things right

The Royal Bank of Scotland Plc should pay Mr R £150.

My final decision

For the reasons above, my final decision is that Mr R's complaint is upheld in part and RBS should put things right as I've described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 12 December 2023.

Kristina Mathews
Ombudsman