

The complaint

Mr L has complained that The Royal Bank of Scotland Plc ("RBS") acted irresponsibly when it provided him with limit increases on his overdraft facility.

Background

Mr L has a current account with RBS. The account has had an overdraft facility on it since 2007. The opening limit was £100, but since 2007 the limit has been increased multiple times. The limit currently sits at £1,500.

Mr L has explained he is a compulsive gambler and has used the overdraft facility on his account to feed his addiction. He believes it was irresponsible of RBS to allow him to gamble using credit and that it failed to provide him with support as a vulnerable consumer facing financial harm. He wants RBS to refund all interest and charges associated with the overdraft facility.

RBS has said that at the time of each limit increase it was unaware Mr L was gambling in a harmful way. It believes it ran all the appropriate checks to ensure the limit increases were affordable to him, so it doesn't think the lending decisions made were inappropriate. However, it did offer to refund £300 of interest as well as pay Mr L £150 compensation as a gesture of goodwill in order to repair the relationship between it and Mr L. But it did this without accepting any liability of wrongdoing.

Mr L didn't think the gesture of goodwill was sufficient. He has said he's been charged considerably more in interest and fees on his account as a result of the increase limits over the years and that RBS could have done more to help him. So, he brought his complaint to this service.

I issued a provisional decision on 16 February 2024 partially upholding Mr L's complaint. I asked both parties to provide me with any comments or additional information they wanted me to consider by 15 March 2024.

Mr L responded to say he accepted my findings in full.

RBS responded asking me to clarify what I wanted it to do to put things right for Mr L. It did not dispute any of the findings I made.

As neither party provided me with any additional information to consider or disagreed with the findings may in my provisional decision I will repeat them below. I will also clarify what RBS needs to do to settle Mr L's complaint.

My findings

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

Part of Mr L's complaint is time barred under the rules that govern us. In summary those rules say that consumers need to complain within six years of the event they are complaining about. Or within three years of knowing they had reason to complain. Mr L brought his complaint to RBS in June 2023 and so we can only consider the lending decisions that happened after June 2017. Mr L accepts this and so this decision will only look at the limit increases that happened after June 2017.

By June 2017 Mr L's overdraft limit was £1,800. Between August and November 2017, the limit was increased a further three times, to £2,000, £2,300, and £2,500. In order to decide whether or not the lending decisions were appropriate I've looked at Mr L's account history as well as the checks run by RBS at the time.

RBS has provided some information about the checks it ran at the time to ensure any limit increases were affordable. It explained that these would have included reviewing Mr L's existing debt and disposable income as well as how he was managing his account at the time. RBS has said that having done that it was satisfied that the limit increases were affordable for Mr L and there were no reasons that access to additional credit would be inappropriate.

I've also reviewed Mr L's circumstances at the time, including his monthly income and outgoings, as well as how he was managing his account. Having done so I think RBS failed to pick up on indicators that he wasn't managing his overdraft facility well and there were signs Mr L was becoming increasingly dependent on credit. So, I don't think the limit increases between August and November 2017 were appropriate.

I say this because looking at Mr L's account, I can see that between June and August 2017, when the overdraft limit was increased from £1,800 to £2,000 Mr L only managed to get his account in credit for approximately eight days over the entire three-month period. For example, on 28 June 2017 he received his monthly salary which cleared his overdraft balance, but he was overdrawn again by 3 July. He remained overdrawn until he was paid on 26 July but was overdrawn again within four days by 31 July. In August he only managed to get out of his overdraft for approximately two days before he became overdrawn again. And at the time he applied for the limit increase in August he was already well within his existing overdraft limit.

So, I don't understand, how RBS can say that it was satisfied the account was being properly maintained when it increased Mr L's limit in August 2017. It was clear from the previous three months he was becoming overly reliant on the overdraft to cover his monthly outgoings. And while the balance was cleared each month, it was only for very short periods of time. Had RBS reviewed Mr L's expenditure in detail, in order to understand why he was so reliant on his existing overdraft, before agreeing to increase it further it would have seen the volume of gambling transactions on the account and realised that Mr L was using credit to gamble. So effectively paying RBS interest and fees on his gambling losses.

The next lending decision took place in October 2017 when the limit was increased from £2,000 to £2,300. Again, RBS has said that it ran full affordability checks, including considering how the account was being maintained and the existing credit facility managed. It has said having done that it was satisfied that Mr L was maintaining his overdraft well and that the increase would be affordable for him.

I've also looked at Mr L's account to see how he was managing his overdraft between the previous increase in August and the second one in October. Having done so I can see that he was paid on the 30 August and was overdrawn again on 1 September. He then stayed in his overdraft throughout all of September, and indeed all of October not clearing it again until late November. And when it was cleared it was because Mr L had managed to borrow

approximately £5,100 loan from a high-cost credit provider.

So again, it seems strange to me that RBS can say it was satisfied that Mr L was managing his existing credit limit appropriately when it agreed to increase it in October 2017. He had been living in his overdraft throughout the entirety of the previous month. So, I don't think it was an appropriate lending decision.

The next credit limit increase took place only a month later in late November 2017. This time the limit increased from £2,300 to £2,500. As noted above at this point Mr L had been consistently overdrawn since 1 September 2017. His wages, which were paid into the account in full each month, weren't sufficient to clear the balance. By this time, it's clear Mr L was trapped in a cycle of debt. In fact, the only reason the balance was cleared in November 2017 was because of the receipt of the loan mentioned above. Which means Mr L was now relying on credit from a third party, to repay the credit he had with RBS. It is also worth noting that RBS agreed to the limit increase before Mr L received the loan funds so the account was overdrawn at the time of approval.

So, it follows that I think all three limit increases between August and November 2017 were inappropriate and shouldn't have happened.

Following the receipt of the loan funds into his account in November 2017, Mr L's overdraft limit was reduced to £1,000. It stayed at that amount until March 2018, when it increased to £1,400.

Again, I've reviewed the information RBS has said it considered when deciding whether or not the limit increase was affordable and sustainable for Mr L. Having done so I can see that throughout January and February Mr L managed his account better. No doubt helped by the fact he had access to the loan funds from the other credit provider. However, while his account did become overdrawn at times; it didn't stay in the overdraft for prolonged periods and so, I can't say that RBS was wrong to provide the credit limit increase in March 2018 because it does seem like Mr L was managing his account better at this time and the limit increase would have seemed both affordable and sustainable. So, I'm not upholding this part of his complaint.

The final, increase to take place was in May 2018 when the limit changed from £1,400 to £1,500. Looking at the information RBS has said it relied on to approve the increase I can see that Mr L was overdrawn in March when he got the previous increase but cleared the balance on 28 March when he was paid. However, the account was overdrawn again, by 3 April. And it remained overdrawn until 25 April when Mr L received his salary. But as with previous months it was overdrawn within a few days and was still overdrawn when the May limit increase was approved.

I don't think the final increase was appropriate and I don't think RBS properly considered how Mr L was managing his account throughout the time it approved the increase. So, I'm upholding Mr L's complaint in regard to the limit increases in August 2017, October 2017, November 2017 as well as the final increase in May 2018. As noted above I think the limit increase in March 2018 was reasonable so I don't intend on asking RBS to do anything in relation to that increase.

Mr L has said he would like all interest and charges associated with the overdraft facility refunded. I won't ask RBS to do that as I don't think it's a reasonable request. Mr L has had use of the overdraft and RBS is entitled to charge for the facility. The suggested refund above relates only to those times where the limit was increased to levels that were unaffordable and unsustainable for him. But Mr L is obliged to pay the interest and charges associated with the facility when it was set to affordable limits.

Mr L has also complained about the lack of support he's received from RBS in connection to his compulsive gambling problem. Throughout all of the limit increases Mr L was using his overdraft to fund his gambling addiction. RBS has said because gambling is legal in the UK it's not appropriate for the bank to question customers who use their funds in this way. However, I don't think it's as straightforward as that. While I accept gambling is legal, and the majority of people who gamble in the UK do so in a safe way, it is also very well known that gambling excessively can cause enormous harm to both the person gambling and those around them. And the volumes of gambling transactions that took place on Mr L's account at this time were so high, and the rate that they occurred so frequent, that it was extremely unlikely to be representative of someone who is gambling in a safe and enjoyable way.

Mr L has said that he's disappointed RBS never approached him about his gambling or offered support to him. RBS has said that it did contact Mr L a number of times in 2021 about his overdraft usage and to discuss whether or not it could help him manage his finances better. This would have included being able to add gambling blocks onto his account if he wanted to. But Mr L didn't respond to the letters sent by RBS and so it's not been able to discuss the options available to him.

I appreciate that these sorts of problems are exceptionally difficult to talk about. I would urge Mr L to contact RBS and discuss what support it can provide to him and what his options are. He has said that he wants to keep his overdraft facility. Given that there were points where this wasn't fully affordable for him, I do think it would be pertinent for Mr L to contact RBS and have a discussion around his existing income and expenditure to ensure the facility is still affordable and isn't causing him unnecessary stress. I have listened to some calls between Mr L and representatives from RBS that took place last year and I do think the bank outlined various options that were available to him, but at that time Mr L didn't want to pursue any of those. So, I don't think it's fair to conclude that RBS has failed to offer support to Mr L, although I appreciate the support was needed long before the offer was made.

However as stated above, I do think RSB was wrong to provide the limit increases between August and November 2017. I also think the final increase in May 2018 shouldn't have happened. And so, I'm upholding Mr L's complaint on that basis.

Putting things right

In order to put things right Royal Bank of Scotland Plc should:

- Re-work Mr L's account balance as though the overdraft limit never exceeded £1,800 between August 2017 and November 2017. It should refund any interest or fees charged over a £1,800 limit during that time to Mr L.
- As I think the limit increase to £1,400 in March 2018 was appropriate, RSB does not have to refund any interest or charges linked to that increase.
- However, the final increase to £1,500 in May 2018 was also inappropriate. Therefore, RBS should also rework the balance of Mr L's account as though the final increase in May 2018 had not happened and the limit had never exceeded £1,400.
- It then follows that Mr L's overdraft limit should be reduced to £1,400
- RBS can deduct the £300 it has already refunded to Mr L from the amount owed once it has completed its calculations.
- If the effect of refunding the excess fees, interest and charges, results in there no

longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr L, 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 L's credit file. *

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

RBS has already paid Mr L £150 in recognition of the distress he's experienced and I think this is reasonable and am not asking it to pay any additional compensation to Mr L.

Mr L should also consider contacting RBS to discuss any concerns he has about his overdraft if he is still finding it difficult to manage.

My final decision

For the reasons set out above, and in my provisional decision of 16 February 2024, I partially uphold Mr L's complaint against Royal Bank of Scotland Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 12 April 2024.

Karen Hanlon
Ombudsman