

The complaint

Mr G complains that The Royal Bank of Scotland Plc (RBS) lent to him irresponsibly.

What happened

Mr G has had a number of loans from RBS as follows:

Date	Loan No	Amount	Term	Monthly repayment	Repaid
9 Dec 2015	Loan 1	£2,000	60 months	£58.28	25 Jan 2016
25 Jan 2016	Loan 2	£3,600	60 months	£97.38	14 Sept 2017
11 Sept 2017	Loan 3	£3,950	42 months	£127.23	8 April 2019
28 Feb 2020	Loan 4	£11,300	60 months	£282.31	26 June 2023

Loan 1 was repaid by Loan 2, which in turn was repaid using Loan 3. There was then a gap of almost a year before Loan 4 was taken. Mr G has now repaid Loan 4 in full.

On 12 March 2024, Mr G complained to RBS. He said it had lent to him when he was “*financially vulnerable*”, and he had to have “*two jobs in order...to pay [his] bills and live*”. He asked RBS to refund at least 25% - but ideally 50% - of the interest he’d paid on the loans.

RBS looked into the complaint. It said it only had limited information about the lending decisions for Loans 1-3 due to its data retention policy. It explained the checks it carries out on all applications for credit and said it was satisfied it had lent all four loans to Mr G fairly and in line with its process. RBS didn’t uphold the complaint.

Mr G was unhappy with RBS’ response, so he referred his complaint to our service. When he did so, RBS told us it felt his concerns about Loans 1-3 had been brought too late under the complaint handling rules of the Financial Conduct Authority (FCA) so were outside our jurisdiction. There was no dispute that we could look into Loan 4.

One of our investigators looked into Mr G’s complaint. She felt it could reasonably be considered as being about the fairness of his credit relationship with the bank because he said it had lent him more than he could afford to repay while he was financially vulnerable. On that basis, our investigator said the complaint about the earlier loans had been brought in time. She went on to consider Mr G’s concerns about all the loans based on the evidence available, but she didn’t uphold the complaint.

Mr G was unhappy with our investigator’s view of the complaint. He said he has a mental health condition which meant he was very focussed on ensuring he met all repayments and therefore had a clean credit file. This led to him taking a second job and he worked himself “*to unfortunate ill health*” and went without essentials in order to pay his credit. As there was no agreement, the complaint has been passed to me for a decision.

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.

There are time limits for referring a complaint to the Financial Ombudsman Service, and RBS thinks this complaint was referred to us too late. Our investigator explained why she didn't, as a starting point, think we could look at a complaint about the lending decisions that happened more than six years before the complaint was made. But she also explained why it was reasonable to interpret the complaint as being about an unfair relationship as described in Section 140A of the Consumer Credit Act 1974 (s.140), and why this complaint about an allegedly unfair lending relationship had been referred to us in time.

For the avoidance of doubt, I agree with our investigator that I have the power to look at the complaint on this basis. I think this complaint can reasonably be considered as being about an unfair relationship as Mr G says the loans were unaffordable for him and caused him to take two jobs to make ends meet. This may have made the relationship unfair as he had to find larger repayments and pay more in interest than he could afford. I acknowledge that RBS doesn't agree we can look at this complaint, but as I don't think it should be upheld, I don't intend to comment on this further.

In deciding what is fair and reasonable I am required to take relevant law into account. Because Mr G's complaint can be reasonably interpreted as being about the fairness of his relationship with RBS, relevant law in this case includes s.140A, s.140B and s.140C of the Consumer Credit Act 1974.

S.140A says that a court may make an order under s.140B if it determines that the relationship between the creditor (RBS) and the debtor (Mr G), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement;
- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship.

S.140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given what Mr G has complained about, I need to consider whether RBS' decision to lend to him, or its later actions, created unfairness in the relationship between him and RBS such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Mr G's relationship with RBS is therefore likely to be unfair if it didn't carry out proportionate affordability checks and doing so would have revealed its lending to be irresponsible or unaffordable, and if it didn't then remove the unfairness this created somehow.

I think there are key questions I need to consider in order to decide what is fair and reasonable in the circumstances of this complaint:

- Did RBS carry out reasonable and proportionate checks to satisfy itself that Mr G was in a position to sustainably repay the loans?
 - If not, what would reasonable and proportionate checks have shown at the time?
 - Did RBS make a fair lending decision?
- Did RBS act unfairly or unreasonably towards Mr G in some other way?

It's not about RBS assessing the likelihood of it being repaid, but it had to consider the impact of the repayments on him. There is no set list of checks that it had to do, but it could take into account several different things such as the amount and length of the credit, the amount of the monthly repayments and the overall circumstances of the borrower.

Did RBS carry out reasonable and proportionate checks?

RBS has provided what information it has available with regards to all the loan applications. In the case of Loans 1-3, that information is limited due to the time elapsed since they were taken. This isn't surprising as banks are not required to hold on to information indefinitely. RBS explained that it uses the information provided by the customer on the application form and their existing account information. The bank then reviews the credit file of the applicant and uses a statistical tool to assess the affordability of the loan.

Loans 1 and 2

The application information for these loans would have been very similar as they were only a few weeks apart. Although that information is now limited, what is available shows that Mr G was living with parents and earning around £850 a month. He had living costs of £380 or so leaving a disposable income of approximately £470. Mr G's credit file showed he had no debts elsewhere at the time and had no defaults or County Court Judgements (CCJ).

I don't think there would have been any concerns for RBS regarding the application for Loan 1.

By the time he applied for Loan 2, Mr G had also taken out a credit card with the bank. Given the proximity to Loan 1, I think this might have led RBS to take a closer look at Mr G's circumstances to consider why Mr G was now taking on credit so quickly. But had it done so, I think it more likely than not that it would still have found he had sufficient disposable income to meet the repayments alongside his payments to the credit card.

So based on the information I have to hand from each party to the complaint, I don't think RBS reached an unfair decision to agree Mr G's applications for Loans 1 and 2.

Loan 3

Mr G applied for Loan 3 to clear his existing debts with RBS. His income had increased to £1,291 and he now had £350 of housing costs alongside living costs of around £390. His credit file still showed he had no defaults or CCJs. He'd demonstrated over the previous 18 months or so, that he was able to meet the repayments to Loan 2 (£97.38) on time and he was making more than minimum payments to his credit card with it.

I've looked at Mr G's current account statements for a few months prior to this application and it ran in credit throughout. I've not seen any signs of financial difficulty that ought to have caused RBS any concerns.

I note that Mr G elected to take Loan 3 over a shorter period of time which meant it was still due to be repaid by the time Loan 2 had been due to expire. While this also meant the

payments increased by around £30, it still appears he had more than sufficient disposable income to meet the repayments.

I don't think RBS treated Mr G unfairly when it agreed this loan for him. I note that Mr G made all the repayments on time until he repaid the loan in full and early on 8 April 2019.

Loan 4

When Mr G applied for Loan 4 to consolidate his existing debts, he declared a monthly income of £1,916 which RBS has told us it verified and could see going through his current accounts. Mr G had rent of £250, and RBS noted his credit repayments as being £461 with living costs of £590. This left a net disposable income of around £600 before taking account of the fact that Mr G would be repaying some or all of his existing credit repayments.

I note that Loan 3 had also been taken to refinance Mr G's credit card which might've made RBS want to take a closer look at his finances to ensure the credit he had with it was sustainable for him. But that loan had been repaid in full almost a year before and, while the credit card balance had increased again, it was being maintained.

Once again, Mr G's credit report showed no adverse information such as defaults or CCJs.

Mr G had two accounts with RBS by this time and I've seen statements for each for a few months leading up to Loan 4 being taken. Each account ran exclusively in credit for the period.

I've seen nothing which would lead me to think RBS ought to have thought Mr G wouldn't be able to sustainably meet the repayments. This loan was intended to consolidate all his borrowing into one monthly payment making it easier for Mr G to budget, and at a lower interest rate - much lower than his credit card. So, I think RBS reached a fair decision to agree his application.

Did RBS act unfairly or unreasonably towards Mr G in some other way?

Mr G has told us that his mental health condition meant it was important to him that he kept a clean credit file and was up to date with his payments. This led to him taking two jobs to ensure that he could meet the repayments on his loans and other credit he had. And I can see that from at least September 2018, he was receiving regular income from two employers.

I thank Mr G for sharing this information and it does provide further context around why he's brought his complaint. But I've not seen that Mr G shared details of his mental health issues with RBS at the time to enable it to take them into account in its decision making. It wouldn't be reasonable for me to take into account information which RBS couldn't have known about at the time. From what RBS could see, Mr G was up to date with his borrowing and didn't appear to be in any particular financial difficulty.

I've looked at all the evidence available from each party to this complaint, including what happened after Loan 4 was drawn. I can see that he was able to make the repayments on time and cleared the balance in full on 26 June 2023. He's told us that he paid off the loan "*after being able to save money*". I've not seen anything which leads me to think that RBS has treated Mr G unfairly in some other way.

I realise my decision will come as a disappointment to Mr G, but for the reasons I've set out above, I don't think I can reasonably uphold his complaint.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 13 June 2025.

Richard Hale
Ombudsman