

## **Complaint**

Mr B has complained about the overdraft charges The Royal Bank of Scotland Plc (“RBS”) applied to his current account. He’s effectively said that the overdraft was unaffordable and RBS continued to provide it even when there were signs of difficulty on the account. Therefore, the charges applied to his account were unfair as he could not afford them.

## **Background**

Mr B has had an overdraft on his RBS current account since February 2006. Mr B had a limit of £50 which was eventually increased to £250 in August 2008. In September 2016, Mr B’s account was converted to a student account and he was granted an interest and fee free student overdraft for £500 at this time. In February 2017, the overdraft limit on Mr B’s account was increased to £2,000.00. The preferential overdraft terms on Mr B’s account ended in December 2020 and he began being charged interest on his overdraft at this stage.

In March 2022, RBS was notified that Mr B had contacted a debt management provider and froze the interest on the overdraft at this point. As far as I can see, Mr B ceased being charged interest on the account at this point and the balance subsequently ended up in a debt management plan.

In March 2025, Mr B complained said that the overdraft was unaffordable and RBS continued to provide it even when there were signs of difficulty on the account. RBS did not uphold Mr B’s complaint. It didn’t think that it had done anything wrong either when providing the overdraft or allowing Mr B to use his overdraft in the way that he did. Mr B remained dissatisfied at RBS’ response and referred his complaint to our service. When Mr B referred her complaint to us, RBS told us that it considered Mr B’s complaint was made too late.

One of our investigators reviewed what Mr B and RBS had told us. He reached the conclusion that we could look at the entire period Mr B had his overdraft for. However, he wasn’t persuaded that RBS had acted unfairly by allowing Mr B to use his overdraft in a way that was unsustainable or otherwise harmful. So the investigator didn’t recommend that Mr B’s complaint be upheld.

Mr B disagreed with the investigator and asked for an ombudsman’s decision.

## **My findings**

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

### *Basis for my consideration of this complaint*

There are time limits for referring a complaint to the Financial Ombudsman Service. RBS has argued that Mr B’s complaint was made too late because he complained more than six years after the lending decisions and some of the charges on the overdraft were applied, as well as more than three years after he ought reasonably to have been aware of his cause to make this complaint.

Having carefully considered everything, I've decided not to uphold Mr B's complaint. Given the reasons for this, I'm satisfied that whether Mr B's complaint about some of the specific charges applied was made in time or not has no impact on that outcome.

Having considered matters, I'm satisfied that it is reasonable to interpret Mr B's complaint as being one alleging that the lending relationship between Mr B and RBS was unfair to Mr B as described in s140A of the Consumer Credit Act 1974 ("CCA"). I consider this to be the case as Mr B has not only complained about the circumstances behind the application of the individual charges, but also the fact RBS' failure to act during the periods he alleges it ought to have seen he was experiencing difficulty caused ongoing hardship.

I'm therefore satisfied that Mr B's can therefore reasonably be interpreted as a complaint that the lending relationship between himself and RBS was unfair to him. I acknowledge the possibility that RBS may still disagree that we are able to look at the whole of Mr B's complaint, but given the outcome I have reached, I do not consider it necessary to make any further comment or reach any findings on these matters.

In deciding what is fair and reasonable in all the circumstances of Mr B's case, I am required to take relevant law into account. As, for the reasons I've explained above, I'm satisfied that Mr B's complaint can be reasonably interpreted as being about that his lending relationship with RBS was unfair to him, relevant law in this case includes s140A, s140B and s140C of the CCA.

S140A says that a court may make an order under s140B if it determines that the relationship between the creditor (RBS) and the debtor (Mr B), 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. S140B 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 Mr B's complaint, I therefore need to think about whether RBS' allowing Mr B to use his overdraft in the way that it did, resulted in the lending relationship between Mr B and RBS being unfair to Mr B, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove any such unfairness.

Mr B's relationship with RBS is therefore likely to be unfair if it allowed Mr B to continue using his overdraft in circumstances where it ought reasonably to have realised that the facility had become unsustainable or otherwise harmful for him. And if this was the case, RBS didn't then remove the unfairness this created somehow.

*RBS's initial decision to provide Mr B with a student overdraft of £500 and then increase the limit on it to £2,000.00*

We've set out our general approach to complaints about unaffordable/irresponsible lending -

including the key rules, guidance and good industry practice - on our website. And I've referred to this when considering Mr B's complaint.

RBS needed to make sure that it didn't lend irresponsibly. In practice, what this means is RBS needed to carry out proportionate checks to be able to understand whether Mr B would be able to repay what he was being lent before providing any credit to her.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

I think that it is worth me starting by saying that when she was initially granted this overdraft Mr B wouldn't have had to pay any interest or charges for some time provided that he kept within his agreed limit. I think this is especially important context to bear in mind given Mr B's complaint about the decision to grant him a student overdraft and the limit increase.

When Mr B initially applied for his student overdraft, I understand that RBS will have carried out a credit search. Bearing in mind what I've been provided, I'm satisfied that any credit search that RBS carried out will more likely than not have shown that Mr B hadn't had previous difficulties with credit. I've not seen anything to suggest that the situation changed by the time that Mr B was provided with his limit increase either.

I'm also mindful about Mr B's circumstances at the time of this overdraft application and limit increase and the fact that he was entering (and in at the time of the increase) full time education. In these circumstances, where Mr B was unlikely to earn for some time, it's difficult for me to agree that agreeing this overdraft was wholly unreasonable given it would provide him with some breathing space and was a far better alternative to any other alternative sources of credit Mr B would more likely than not have turned to.

I also don't think that Mr B was provided with his overdraft at a time where he had no income given Mr B's statements show that he was in receipt of student loans. And given the circumstances, where this was a student account where Mr B would continue to receive the funds interest free for an extended period, it's difficult for me to accept that RBS providing Mr B with the overdraft or increasing the limit was unfair.

So overall bearing in mind the circumstances and the type of facility it agreed to, I don't think that RBS treated Mr B unfairly or unreasonably when providing him with an interest free overdraft of up to £2,000.00. For the sake of completeness, as RBS was not providing Mr B with additional credit, but rather reducing the amount he had available to him, I don't think that it was unfair for it to decrease Mr B's overdraft limit, in line with his requests in October 2021 and November 2021 either.

*Did RBS unfairly allow Mr B to continue using his overdraft in a way that was unsustainable or otherwise harmful for him?*

Before I go any further, as this essentially boils down to a complaint that Mr B was unfairly charged as a result of being allowed to continue using his overdraft, I want to be clear in saying that I haven't considered whether the various amounts RBS charged were fair and reasonable, or proportionate in comparison to the costs of the service provided. This is

important as I note that Mr B has referred to the interest rate on his overdraft and ultimately, how much a bank charges for its services is a commercial decision. This isn't something for me to get involved with.

That said, while I'm not looking at RBS' charging structure per se, it won't have acted fairly and reasonably towards Mr B if it applied this interest, fees and charges to Mr B's account in circumstances where it was aware, or it ought fairly and reasonably to have been aware that there was a clear reason it would have been unfair to do so. I've therefore considered whether such a reason existed which would have resulted in RBS charging Mr B unfairly.

Having looked through Mr B's statements, it's clear that he has been using his overdraft for a number of years – although for most of this period the facility was interest free. As I've explained, while the account had preferential terms Mr B wasn't being charged any interest. So the only thing that RBS could have done at this stage was default the account.

Given Mr B was studying at this stage, it's difficult for me to see how such action would have better helped his situation than allowing him an interest free overdraft. Indeed, given what he has said about his use of payday lending and other types of high-cost credit, it seems to me that this is the type of provider Mr B is likely to have turned to if his interest free overdraft had been removed. Therefore, I'm not persuaded that RBS acted unreasonably in allowing Mr B to continue using his overdraft while he had preferential terms on it.

I've noted Mr B's argument that RBS failed to clearly explain the transition from student to graduate terms. While he said this, it's not clear how he wanted and expected this to be explained to him. In any event, the terms of his student account and the operation of the preferential terms were set out in the documentation that Mr B would have been provided with when he first converted his account to a student account in September 2016. Although I accept that he may not necessarily have recalled this documentation prior to being charged on his overdraft.

In any event, Mr B has referred to the annual fee summaries and the warning letters he received. I also understand that RBS will have sent Mr B notifications about the fact his student and then graduate terms were expiring as well as the implications of this. Mr B says that these communications, where they were received, did not help him make informed decisions.

However, the annual fee summaries and the warning letters did set out the charges being applied to Mr B's account. Furthermore, as Mr B was able to take action in relation to reducing his overdraft limit and also upgrading his account to a packaged account in November 2020, it's difficult for me to accept that he wasn't in a position to acknowledge the charges, or what it was he was paying for. So I don't think that it was unreasonable for RBS to have transitioned Mr B onto its standard current account terms when it did in 2020.

I'll now go on to consider whether it was fair and reasonable for RBS to begin adding interest to Mr B's overdraft when it began doing so in December 2020.

Most of Mr B's arguments centre on the fact that he was using his overdraft for a number of years and this was a problem. However, I've already explained why I don't think that RBS acted unfairly or unreasonably towards Mr B prior to December 2020. So there is effectively a 15-month period where Mr B was charged interest on his overdraft and the question for me to decide is whether RBS was reasonably entitled to apply these charges. I've carefully considered whether this was the case.

In the first instance, I can't see that RBS received any notification that Mr B was experiencing difficulty until the debt management company Mr B had consulted got in touch

with it in March 2022. Had it received such a notification sooner I would have expected it to have acted on it. But there is no dispute that Mr B didn't get in touch earlier than this. Mr B has said that RBS should in any event have known this and has referred to his health and personal circumstances.

I wish to say that I'm sorry to hear that Mr B has had a difficult time both in terms of his health and his personal circumstances. And I do sympathise with the position he's been left in. That said, I can't see anything to indicate that Mr B made RBS aware of his health issues or those of his family prior to his complaint. Indeed, Mr B has said that his health condition was diagnosed in 2022 so I don't think that RBS could have known about this during the period it was applying overdraft charges.

It's fair to say that Mr B was making gambling transactions and this is another reason why Mr B says that RBS ought to have acted sooner. If I take Mr B's arguments to their logical conclusion here his gambling ought to have seen RBS take action almost immediately after it began charging him for his overdraft. However, current accounts aren't monitored by human beings. For the sake of completeness, I would add that there is no requirement for a bank to monitor accounts in this way.

What typically happens is that banks will use algorithms to monitor account balances and how much overdrafts are being used. This did happen on Mr B's account as he was sent three letters about his repeat overdraft use in 2021. According to the regulations in place, sending repeat use letters is the correct first step to take – ultimately a bank is required to tell a customer that they are using their overdraft regularly and point out how much this is costing. The idea is that this will encourage the customer to change the way that they used their overdraft.

There is no dispute that Mr B was sent such letters and while he says that they weren't tailored to his circumstances, as he'd only just started being charged and as a result would be deemed to be in the early stages of the process, I'm not persuaded that tailored support was necessary here.

That said, it's fair to say that once a year had passed and Mr B's overdraft usage and account management hadn't changed, RBS ought to have moved from nudging Mr B into changing things to being more interventionist. So I would have expected it to have begun the process of taking stronger corrective measures in relation to Mr B's overdraft usage in early 2022.

I don't know what, if any, direct intervention RBS had planned. It's fair to say that it hasn't referred to anything specif. In any event, the need for RBS to react to what its algorithms would have highlighted was superseded by the debt management company, Mr B had contacted, getting in touch in March 2022. As a result of this notification, RBS froze all interest, fees and charges on the account.

Given Mr B was in discussions with a debt management company at this stage, I also think that it was fair for it to wait until the conclusion of those discussions before taking action to remove the overdraft. This is especially as it had already ceased charging Mr B. In these circumstances, even if this was simply as a result of Mr B approaching a debt management company when it did, RBS ended up taking action on Mr B's account roughly around the time I would have expected it to do so.

As this is the case, I don't think that it was unreasonable for RBS to have proceeded adding the charges that it did. I've not been persuaded that RBS created unfairness in its relationship with Mr B by allowing him to use his overdraft in the way that he did up until March 2022. Equally, any unfairness that could have materialised from this point onwards

didn't manifest itself as a result of no further interest being charged once the debt management company Mr B was in discussions with contacted RBS in March 2022.

Based on what I've seen, I don't find RBS treated Mr B unfairly in any other way either. In these circumstances, I don't find that the relationship between Mr B and RBS was unfair to Mr B.

Overall and having considered everything, while I can understand Mr B's sentiments and appreciate why he is unhappy, I'm nonetheless not upholding this complaint. I appreciate this will be very disappointing for Mr B. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

### **My final decision**

For the reasons I've explained, I'm not upholding Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 2 March 2026.

Jeshen Narayanan  
**Ombudsman**