

## **The complaint**

Mr and Mrs J complain that The Royal Bank of Scotland Plc wouldn't just action their request to voluntarily surrender their former home, which is mortgaged with it. They said this was causing credit file damage, and RBS was also refusing to update their address.

## **What happened**

Mr and Mrs J told us they have relocated from their former home, following one of them becoming seriously ill, and the other needing to become a full time carer as a result of this illness. I won't set out the details that Mr and Mrs J have shared with our service here, but I have taken those fully into consideration in the decision below.

The property is mortgaged with RBS, and Mr and Mrs J told us they had stopped making payments to the mortgage. They tried to sell the property, but found this stressful. They said they wanted to voluntarily hand the property back to RBS. They contacted RBS to ask for this at the end of August 2024, but they said no progress had been made. Instead, RBS was now threatening to take legal action to repossess the property.

Mr and Mrs J said they weren't able to cover the mortgage payments, so all of the delay RBS was causing was adding to the impact on their credit files. They wanted RBS to go ahead with the voluntary surrender of their property and remove all the negative markers from their credit files.

Mr and Mrs J also said that RBS hadn't acted on their request to change their address, so it was still sending sensitive documents to their old address. They said RBS told them their new address hadn't been properly validated, but they said it had still written to them once at their new address. They said either RBS didn't have a properly authorised new address for them, in which case it shouldn't ever have written to them at this new address, or it did have a properly authorised new address for them, in which case RBS should have sent all of their correspondence there. They didn't think RBS could have it both ways.

RBS said it wouldn't just take the property back, because it was concerned someone might be living in the property. If there is someone living there, then RBS needs to go through a formal repossession process, which also allows it to evict anyone living there so it can then move to sell the property. RBS said because of the doubts about whether the property was occupied or not which had been raised by a field agent visit, it had asked Mr and Mrs J to provide photographic evidence that the property was empty. But they hadn't done that.

RBS also said it hadn't been able to update Mr and Mrs J's address, because it needed to complete its authorisation process by speaking to them to confirm the request. Although it had tried, it hadn't been able to contact them. RBS said it had only sent one letter to their new address, which was a one-off letter to try to prompt Mr and Mrs J to get in touch, on 7 January.

Mr and Mrs J said RBS's own field agent had confirmed the property was vacant, and they said the nature of the illness (which they've explained affects them both, as one provides care for the other) meant they couldn't travel back to their former home to take photos of it

and prove it is empty. They thought RBS should take their word for this.

Mr and Mrs J said they were vulnerable customers, and RBS wasn't taking that into account.

At first, our investigator thought RBS should pay Mr and Mrs J £150 because it took some time to notify Mr and Mrs J of its requirements for repossession. She also said RBS should allow four weeks for them to supply the requested photos before moving ahead with legal action for repossession. But Mr and Mrs J said much of their complaint had not been dealt with, and they said it was completely impractical to ask them to go to the property, which was a very considerable distance from where they now live. Mr and Mrs J also said they'd never seen a copy of the field agent's report, and had been told the property was confirmed as vacant. They said the property had been vacant for more than two years.

Mr and Mrs J reiterated that they are vulnerable customers, their situation is particularly difficult, and they said no one seemed to be taking this into account.

Our investigator then wrote to RBS asking about its requirement for photos before it would permit Mr and Mrs J to voluntarily surrender. She encouraged RBS to rethink this, and in reply RBS offered to attempt to take vacant possession of the property. But RBS said when its contractors went to the property, if there were any signs of occupation, then those contractors would walk away, and the costs of the failed voluntary surrender would be added to Mr and Mrs J's mortgage. RBS would then proceed with legal action to repossess the property, which would include evicting anyone living there. RBS said it didn't need Mr and Mrs J to return the keys, if they agreed to this.

Our investigator told Mr and Mrs J about this offer, and said she thought it was fair. She said RBS could only accept voluntary surrender if the property was indeed empty. She asked Mr and Mrs J to let us know if they accepted this offer.

Mr and Mrs J said they didn't accept. They still felt much of their complaint had not been considered, and they wanted us to look at the damage to their credit files, the letters sent to the wrong address, and the failure to treat them as vulnerable customers.

Mr and Mrs J then wrote again, to sum up their complaint for me. They stressed that the damage to their credit files was ongoing, and they repeated that if their new address had never been properly verified, RBS should not have sent post there. They said RBS had made no allowances for the illness affecting them, although they said there were legal and regulatory requirements for it to do so. And they said not all the issues they'd raised had been addressed.

In line with Mr and Mrs J's request, this case then came to me for a final decision. I then considered this case, and I reached a provisional decision.

### **My provisional decision**

I issued a provisional decision on this complaint and explained why I did propose to uphold it. This is what I said then:

I'll respond to each of Mr and Mrs J's concerns in turn.

#### Failure to agree voluntary repossession of their property

RBS was asked on 27 August 2024 to accept the surrender of Mr and Mrs J's property. It didn't respond to that request for some time, and when it did, it placed conditions on the surrender, which I don't think were appropriate in Mr and Mrs J's case. RBS could,

alternatively, have offered a second field agent visit to confirm whether anyone was residing at the property. Or it could have made the offer it has made now, which was to action Mr and Mrs J's request for voluntary surrender of their property, subject to the reservation that if the property is indeed occupied, then the voluntary surrender will not proceed, and Mr and Mrs J will need to pay the costs of this, in addition to any costs arising out of subsequent legal action.

I think that offer is a fair and reasonable one, and I will ask Mr and Mrs J to clearly indicate whether they wish to accept it or not, in responding to my final decision.

If Mr and Mrs J do wish RBS to proceed with voluntary surrender of their property, then RBS must action this within four weeks of the final decision in this case being accepted.

But I would need to be clear for Mr and Mrs J that this option is not without risk. If RBS's contractors find anyone living the property, even if someone is there without the knowledge or agreement of Mr and Mrs J, then I think it is reasonable for RBS not to proceed with voluntary surrender, to add any costs incurred to Mr and Mrs J's mortgage debt, and to proceed with repossession. That's because those repossession proceedings will allow RBS to take vacant possession, which it needs in order to sell the property.

#### Impact on Mr and Mrs J's credit file

I understand that Mr and Mrs J had already stopped paying their mortgage before they offered to surrender the property. So their credit files would already show missed payments by the end of August 2024, when they asked RBS about this. However, I think that the offer RBS makes now, should have been made within about a month of the request for voluntary surrender that Mr and Mrs J made at the end of August 2024. So I don't think their credit files should have been impacted to the extent that has happened since then.

I cannot be sure now, how events will proceed after my decision in this case, and whether Mr and Mrs J will be able to voluntarily surrender their property or not. So I think the fairest option in this case, is to tell RBS to remove any credit file impact of missed payments from Mr and Mrs J's files, from October 2024, until at least four weeks after my final decision is issued. RBS should also remove any interest which has accrued during this period, from the mortgage debt of Mr and Mrs J. That's to reflect that this action, in attempting the voluntary surrender of their property, should have been taken some time ago.

#### Failure to allow for Mr and Mrs J's vulnerability

I understand that Mr and Mrs J feel strongly that there are both legal and regulatory reasons why RBS should have acted differently here. Our service takes account of both of these matters, but I determine this complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case. And I don't think it was fair and reasonable in the circumstances of this particular case, either for RBS to fail to inform Mr and Mrs J immediately of the conditions it wished to impose on a voluntary surrender, or to then impose those conditions.

I think this has provided additional stress to Mr and Mrs J, at a time when, as RBS will be aware, they can ill afford such distractions. I will ask RBS to pay Mr and Mrs J £600 in compensation for that.

#### Data protection issues

Mr and Mrs J asked RBS to update their address. It then asked them to write to it, which I understand they did. RBS then applied an additional requirement, saying it needed to speak to Mr and Mrs J before it could confirm that the address change request was genuine.

I can't see that RBS had made this additional requirement clear to Mr and Mrs J when they first asked to change their address. And although it's not clear from the field agent visit that was carried out whether or not there was someone living at the property address RBS was using, this visit did indicate that Mr and Mrs J were not living there.

I don't think it was a breach of Mr and Mrs J's data protection for RBS to send one letter to their new address, in an attempt to get them to contact it. But I do think there may have been other breaches. I can see that RBS received a call from the former address which it still held for Mrs J, when the current owner asked RBS to stop sending correspondence there. Despite a "Gone Away" marker previously having been applied to this address, this phone call would suggest RBS was still sending correspondence there.

In the interests of resolving all of the outstanding issues in this complaint, as well as preventing further breaches of Mrs J's data, I think Mr and Mrs J's address should now be updated by RBS to the address they have most recently given RBS, and have also given our service. Because RBS appears not only not to have actioned their request, but to have continued to send letters to an address for Mrs J which it had also marked as "Gone Away" I also think it should pay an additional £160 in compensation.

If they are concerned about the security of their data, Mr and Mrs J can use part of this sum to pay £30 each to provide 24 months of protective registration with CIFAS.

CIFAS is a member-based fraud prevention agency with a large database. The database records information to protect financial businesses and their customers against fraud. When someone is concerned that their personal details may have been shared inappropriately, they can apply for a Protective Registration on that database. A registration lasts for two years, and it costs £30.

If Mr and Mrs J register in this way, that will then mean, for the next two years, additional checks on identity will be triggered whenever their details are used in an application for products or services with a provider using this database. The database is used by a very significant number of the UK's financial services providers.

This registration may involve some additional inconvenience for Mr and Mrs J, not just because they'll have to register for themselves, but also because they'll then have to take some extra steps to prove who they are, when applying for credit. But they'll have the reassurance that anyone who does try to take out credit in either of their names is likely to face those extra checks too.

I closed by saying my then view was that the above points would provide a fair and reasonable outcome to this complaint. And I invited the parties to make any final points, if they wanted, before issuing my final decision. Both sides responded.

### **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 it agreed with my provisional decision. Mr and Mrs J replied, but didn't indicate agreement or disagreement. Rather, they said that they were not in a position to reach any view on my provisional decision, because of a recent marked downturn in the health condition which is referenced above. They asked for more time.

I replied to offer my deepest sympathies, and say that we could offer an extension of time in these circumstances. If Mr and Mrs J were able to provide evidence of this change in health, we would extend time until 22 December 2025.

I explained then that I would have concerns about placing this case on hold indefinitely. The provisional decision requires a retrospective waiver of interest, and I could not fairly and reasonably ask RBS to waive interest for an extended period if a final decision had been deferred by our service. I would not, alternatively, wish to allow further interest to accrue, adding to the debt and eroding any remaining equity in the property. I noted Mr and Mrs J had told us the property remained empty, so I was also mindful of the ongoing risk that it will deteriorate, which is much higher through the winter months.

Mr and Mrs J replied to say they were seeking the evidence that our service had requested. I have extended time as if this evidence has been supplied, although they have recently contacted our service to say they have not yet been able to obtain this.

Mr and Mrs J also now said they wanted to accept my provisional decision, aside from the proposal for voluntary surrender of their property. They said a family member had stepped in and offered to place the property on the market for them. Mr and Mrs J said they wanted to know whether, as part of the process of having their complaint considered by our service, they could be allowed a reasonable time to market and sell the property before further steps were taken.

I understand why Mr and Mrs J would like a little more breathing space, but I don't think it would be appropriate to continue to hold off any decision in this case. There are a number of requirements placed on RBS by my decision below which I think ought to be actioned more quickly, including a payment of compensation, amendments to Mr and Mrs J's credit files, and a change of correspondence address for them. But none of these become legally binding on RBS unless and until this decision is final, and is accepted by Mr and Mrs J.

I also note that this is a significant shift in the plans of Mr and Mrs J, who initially complained to our service about the delay in actioning a voluntary surrender of their property, but now have found an alternative way forward. I appreciate that Mr and Mrs J's circumstances have changed, but I think it's likely RBS will wish to discuss their revised plans with them. I would encourage both sides to engage with that discussion.

So I do think it's in the interests of both sides, that this decision becomes final now, and I hope Mr and Mrs J will be able to engage with RBS to discuss their plans for sale of the property.

As the change to Mr and Mrs J's plans is recent, and comes at a difficult time, I will retain the option for them to ask RBS to proceed with voluntary surrender in the decision below. However, in line with their wishes, this will not go ahead unless they indicate positive acceptance on this specific point to our service. So that means I haven't changed my mind about what is required to provide a fair and reasonable outcome to this complaint, and I will now make the decision I originally proposed.

## **My final decision**

My final decision is that The Royal Bank of Scotland Plc must do the following –

- IF Mr and Mrs J indicate when accepting any final decision that they wish The Royal Bank of Scotland Plc to proceed with a voluntary surrender of their property, then it should action a voluntary surrender of Mr and Mrs J's mortgaged property, within four weeks of the final decision in this case being accepted. This requirement is subject to the condition that if the property is found to be occupied, then The Royal Bank of Scotland Plc does not have to complete its voluntary repossession, and may add any costs incurred by the attempted repossession to Mr and Mrs J's mortgage.
- Pay £600 in compensation in respect of the delays in actioning a voluntary repossession of Mr and Mrs J's property.
- Remove any credit file impact of missed payments from Mr and Mrs J's files, from October 2024, until at least four weeks after my final decision is issued.
- Remove any interest which has accrued to Mr and Mrs J's mortgage, from October 2024, until at least four weeks after my final decision is issued.
- Update Mr and Mrs J's address to the address they have most recently given RBS, and have also given our service.
- Pay an additional £160 in compensation for failing to keep their data secure.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J and Mr J to accept or reject my decision before 20 January 2026.

Esther Absalom-Gough  
**Ombudsman**