

complaint

Mr C is complaining that The Royal Bank of Scotland Plc (RBS) sold him a business loan for his business that he couldn't afford. He's unhappy that it's pursuing him for the balance.

background

Mr C took out a business loan in 2013 for his business which was used to pay off an overdraft on his business's bank account. Mr C later got into financial difficulties and in 2015 he stopped paying off the loan. RBS referred the debt to its recovery teams and froze his account.

In 2016 Mr C complained to RBS that he thought the loan was forced upon him and he said he couldn't afford it. He said he went into the branch to ask it to allow him to defer his payments but he wasn't allowed to do so.

In June 2016 RBS responded to say that he'd passed the affordability test when he took out the loan. And it said that he'd signed the loan agreement to agree to take out the loan which also said that he should take out legal advice before signing the agreement. So it didn't agree it had pressured him into taking out the loan. It also said that it didn't have any record of him going into his local branch to say that he was in financial difficulties. Although it said that he visited the recoveries team in November 2015.

Mr C contacted this service in June 2017 to complain that RBS was still pursuing him for the debt and had referred the debt to a solicitor firm. He's unhappy that he was told he'd have to go to London to discuss a repayment plan, but he lives in Scotland. He also complained that RBS had restricted his account, which meant that he could only pay money in, but not use the account. And he says this put him in significant financial difficulty.

Our investigator didn't uphold this complaint so Mr C asked for an ombudsman to review it.

my findings

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

I've decided to not uphold this complaint and I'll now explain why.

I'm not able to consider every complaint that's brought to this service. The rules that this service must follow are set by the Financial Conduct Authority and are set out in the Dispute Resolution (DISP) rules. And this also explains the time limits in which a complaint must be brought to this service. DISP 2.8.2 says that this service can't consider a complaint which is brought more than six months after the business' final response.

Our rules say that a final response letter is a written response where the business sets out its decision. The letter will also explain that the consumer can refer the complaint to this service, but they must do so within six months.

Mr C initially complained to RBS in 2016 and it issued a final response letter in respect to this complaint in June 2016. But Mr C didn't contact this service until June 2017 – more than six months after the final response letter was issued.

Our rules say we can consider the complaint if there were '*exceptional circumstances*' that prevented Mr C from bringing the complaint within six months. But he hasn't given us anything to say that there are any exceptional circumstances. So I can't look at anything that RBS addressed in its final response letter.

In this letter, RBS set out why it thought the loan was affordable when Mr C took it out and why it didn't think it had pressured him into taking out the loan. So I can't look at these issues in this decision. In this decision, I'm only looking at whether it was fair for RBS to freeze his bank account and the way it's pursuing him for the debt.

freezing of the account

RBS says it froze Mr C's accounts when the debts were referred to its debt recovery team, which it said is its standard practice. And it said it had tried to contact Mr C a number of times before then to try to arrange a suitable repayment plan. But it said Mr C didn't respond.

I can see that Mr C stopped making his loan repayments in August 2015. And RBS would've issued letters to say that he'd defaulted on the loan. I can also see that it emailed Mr C in October 2015 to say that if it didn't hear from him by the end of the month it would pass the accounts to its recoveries team. And it said that he wouldn't be able to use the accounts after this point, other than to pay money in to repay the debts.

Mr C says that he tried to discuss this matter with RBS a number of times throughout, but it didn't respond. But I haven't seen anything to show that's the case.

RBS has a record that Mr C visited its recoveries team in November 2015. But RBS had already frozen the account by this time. And I'm satisfied that he was given enough opportunity to arrange a suitable repayment plan before the account was frozen, but he didn't respond. So I can't say that RBS acted unfairly here.

Mr C said that he went into his local branch in August 2015 to ask it to defer his repayments. But RBS considered this in its final response letter as well, so I can't look at this issue.

RBS is still pursuing him for the debt

Mr C is unhappy that RBS is still pursuing him for the whole debt and that he was told he needed to go to London to arrange a repayment plan.

When Mr C stopped repaying the loan he owed RBS around £35,000 on his loan and overdraft. And he hasn't made any repayments since then. So he still owes RBS a significant amount of money and it's fair for RBS to ask that he repays this. I can see that it's written to him on a number of occasions over the last two years and I haven't seen anything to show he's responded.

I note Mr C says he was made homeless and was living in a caravan so he says didn't have a forwarding address. As a result, he says that he didn't receive the letters RBS sent. But I can't see that he made RBS aware of his living situation. So, while I naturally sympathise with the situation he's in, I can't say that RBS is acting unfairly.

RBS has now instructed a firm of solicitors to pursue the debt which isn't unreasonable, especially given how much he still owes. And I'm aware that it's trying to arrange a suitable repayment plan. So I think it is treating him fairly.

Mr C says that he was told he had to go to London to discuss the debt. But I don't think he was told this was the only option. I accept that he was told he could go to the solicitors' offices in London to discuss it. But I think he also had the option to telephone to discuss a suitable repayment plan.

Ultimately Mr C owes RBS this money and it's fair for RBS to ask him to repay it. And I don't think it's acted unfairly in the way that it's pursued the debt.

my final decision

For the reasons I've set out above, it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 February 2018.

Guy Mitchell
ombudsman