

complaint

Mr F complains that The Royal Bank of Scotland Plc ("RBS") irresponsibly gave him a loan and is unhappy about the registration of the charge over his property. He wants matters put right.

background

Mr F applied successfully to RBS for a loan in order to buy a business abroad in 2004. Mr F's late wife had also given RBS a personal guarantee for any debts owed to RBS, and the guarantee was supported by a second charge over a property. Mr F said that the loan had been given to him irresponsibly as he didn't have any experience in that area of business and RBS didn't carry out the correct checks. Mr F thought RBS should've reviewed a business plan and said that it hadn't correctly registered its second charge over his property.

Mr F complained to RBS. It said that Mr F's business borrowed the money, and it had been secured until the property was sold. RBS said it was entitled to claim the money and it had been lent after credit checks had been carried out. It pointed out that it was Mr F's responsibility to ensure any money borrowed was suitable and affordable at the time when he borrowed the money for business purposes, and that he'd had the opportunity of getting independent legal advice. RBS agreed though that it had asked for the incorrect amount from Mr F as it had frozen interest; it also said that it hadn't received any payment when the property was sold (which may've been because the first charge-holder wasn't paid in full).

Mr F complained to us. RBS explained that the loan complained about by Mr F had been repaid early, and he owed other monies in respect of an overdraft facility given to another business run by Mr F. The investigator's view was that it was too late to complain about a loan made in 2004 and there was no evidence RBS made a mistake when registering the second charge. He also said that as RBS had corrected its claim, there was no further evidence that the amount sought now was incorrect. He didn't uphold the complaint.

Mr F disagreed. He said that RBS had been aware that he was unhappy since 2010 and it had been "dragging its feet" to ensure it was too late for him to complain. The investigator said that Mr F could've complained in 2010 and it wasn't possible for him to assess the complaint given the passage of time and lack of evidence.

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 have already dealt with whether this service can look at the 2004 loan and explained why I have decided that it can't.

That leaves the issues of the second charge and the amount currently claimed by RBS from Mr F. In relation to the second charge, there's no evidence that it was incorrectly registered – it appears that after the first charge-holder was paid, there was no money left for RBS. That isn't evidence of a mistake, and can happen when more than one charge is in place over a property.

I then considered the issue of the amount currently sought by RBS from Mr F. RBS has put right its earlier error. This service isn't an audit service, but based on the evidence before me, I can't say that the amount currently sought is incorrect. Mr F hasn't provided any objective evidence that the amount claimed is incorrect.

my final decision

My final decision is that I don't uphold the complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 28 January 2019.

Claire Sharp
ombudsman