

## **complaint**

Mrs and Mr H complain about the debt recovery action taken by The Royal Bank of Scotland plc and its agents. They want the bank to write off their debt and cease further court action.

## **background**

Following a car accident in late 2010 and the diagnosis of an incurable disease, Mr H has been unable to work and Mrs and Mr H got into financial difficulties. As part of The Royal Bank of Scotland's debt recovery action, it obtained a county court judgement for repayment of their joint account and is planning to obtain a charging order over Mrs and Mr H's house which will enable them to make smaller monthly payments. Mrs and Mr H do not want a charge over their house, even though The Royal Bank of Scotland has said it will put in writing an agreement not to enforce the charging order if agreed regular payments are received.

In addition, Mrs and Mr H say that both The Royal Bank of Scotland and its debt recovery agent have sent them letters about missed payments and both were sent in error.

The Royal Bank of Scotland has written off the business debt in Mr H's sole name (over £2,800), but still intends to pursue the joint account balance, as Mrs H is jointly and severally liable.

## **our adjudicator's view**

Our adjudicator did not recommend that the complaint should be upheld. He explained that this service cannot get involved when a court has issued an order that a debt should be repaid and, similarly, it cannot prevent a charging order over their house. He also considered that the debt that The Royal Bank of Scotland had written off more than compensated for the letters that were sent in error. He found that the bank's offer not to enforce any charging order was fair and reasonable.

Mr H responded to say, in summary, that his main complaint was the way in which The Royal Bank of Scotland treated him and his wife, when it knew about his ill-health and financial difficulties.

## **my provisional decision**

After considering all the evidence, I issued a provisional decision on this complaint to Mrs and Mr H and to The Royal Bank of Scotland plc in September 2013. I summarise my findings:

- I noted that The Royal Bank of Scotland has offered to put in writing an agreement not to enforce any charging order.
- I acknowledged that the bank had already written off Mr H's personal debts and, in response to this complaint, it also wrote off over £2,800 of his business debt. With regard to Mr H's personal circumstances, I found this to be fair and reasonable.
- I did not consider that Mrs H, in particular, had been adequately compensated for the distress that the erroneous letters and misinformation had caused.
- I concluded that Mrs and Mr H should be paid £500 for the additional distress that these letters caused them.

The Royal Bank of Scotland had no objection to the proposed decision.

Mr H responded to say, in summary, that £500 compensation is too low considering the impact this has had on his and his wife's well-being. He added that their monthly income is well below what is considered to be the poverty line and, therefore, he wants The Royal Bank of Scotland to write off the outstanding debt.

### **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I acknowledge that Mr H says that £500 is too little compensation for the effect that The Royal Bank of Scotland's actions have had on his and his wife's well-being. However, this service's awards for distress and inconvenience are modest in nature and, with regard to the general level of awards that we make in this area, I consider £500 to be fair and reasonable given that the bank has already written off Mr H's personal and business debts.

Nevertheless, I would remind The Royal Bank of Scotland to consider its obligations to customers in financial difficulty when agreeing a repayment plan for the outstanding debt.

### **my final decision**

My decision is that I uphold this complaint in part. In full and final settlement of it, I order The Royal Bank of Scotland plc to pay Mrs and Mr H £500 for the distress and inconvenience it caused. In addition, should The Royal Bank of Scotland plc obtain a charging order over Mrs and Mr H's house, I order it to put in writing an agreement not to enforce the charging order if agreed regular payments are received.

Amanda Williams  
**ombudsman**