

complaint

Mr B took out a mortgage with The Royal Bank of Scotland Plc in 2008 through a government help-to-buy (HTB) scheme which assisted with the deposit. In 2009 he had a meeting with RBS to discuss consolidating his debts and to obtain help with home improvements.

He says RBS advised him to look at taking a further advance as this would be more affordable than a personal loan, and he did so. He says that as the original loan was through an HTB scheme, it wasn't appropriate to take a further advance secured against the property in this way. Consent was required from the government which RBS didn't obtain.

To resolve his complaint Mr B wants the debt cleared, his payments returned and compensation for financial distress and lost interest.

background

On Mr B's complaint to RBS it said it did not recommend or provide advice about the advance.

It acknowledged that it should have sought consent from the government and a valuation would have been carried out to see if there was sufficient equity. Instead RBS had relied on the previous valuation it held as this was sufficient for its needs.

RBS didn't agree that it should write off the loan and refund the interest Mr B had paid. But it paid £500 to Mr B to apologise for not requesting consent and for the stress and upset caused.

Mr B wasn't happy and brought his complaint to this service. But our adjudicator didn't recommend it be upheld. She said the RBS offer document confirmed RBS didn't recommend or provide any advice to Mr B about the further advance. She was unable to agree this was irresponsible lending, as she hadn't seen any evidence that RBS gave Mr B any advice to take out the further advance in 2009.

To resolve his complaint Mr B wanted RBS to effectively write off the debt and to refund all the interest he'd paid since the further advance was drawn down in 2009. She was unable to ask RBS to do this because whilst an error had been made, Mr B had had the benefit of the money and carried out home improvements on his property.

The adjudicator said RBS had already credited Mr B's account with £500 to acknowledge the trouble and upset caused. She considered this fair and reasonable and was unable to ask RBS to increase the amount it had already paid or to do anything more.

Mr B didn't agree. He said he would never have taken the further advance knowing what he knows today. This information was never put to him. If he'd been aware of the implications to his mortgage with the involvement with the HTB scheme he would never have agreed to the additional borrowing.

He said that at an educated guess the lending would have been refused by the government in 2009 as the property would have dropped in value. The deposit was not his to take monies from. RBS had been guilty of taking advantage and had admitted to 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'm not sure what implications to his mortgage Mr B is referring to. The original mortgage was for £60,000 plus fees against a stated value of £100,000. The HTB scheme could provide up to 15% or £15,000 and I'll assume it did so.

The further advance offer was for £20,000 plus fees. It recorded that Mr B estimated his property to be worth £107,000. So the "cover" for the HTB loan of £15,000 was £27,000. It's not obvious therefore that the government would have refused consent if approached.

While RBS' failure to seek consent was mistaken, I can't see that it has caused Mr B any financial loss or that there's any reason why the lending should be written off.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 11 April 2019.

Edward Callaghan
ombudsman