

## Complaint

Mr and Mrs S and Mr and Mrs T were business partners. They complain about the actions of The Royal Bank of Scotland Plc ("RBS") regarding the management of their loan accounts.

## Background

In 2007, the partners purchased a development site with the intention of building three new houses. The partners took a £450,000 loan from RBS in March 2007, due to expire in June 2008.

The development ran into difficulties and there were problems with funding and repaying the debt when due. Over the course of several years, a series of further loans, often restructured, were agreed. The partners' loan accounts were managed by the bank's Specialist Relationship Manager from 2010 and were moved to the Strategic Management Unit in 2012.

In 2013, the last property in the development was sold and Mr and Mrs S sold one of their other properties in order to allow the repayment of most of the partnership borrowing. The remaining debt was restructured in 2014 into a loan to Mr and Mrs S, which was paid off in 2019.

The partners complained to RBS in the autumn of 2016. The bank considered the complaint as part of its review of matters related to its Global Restructuring Group (GRG). The bank didn't offer the partners any compensation. Following the partners' appeal to the Independent Third Party, the bank confirmed that the outcome of the review was unchanged. Unhappy with the bank's response, the partners referred their complaint to this service.

The partners said RBS had unfairly increased the loan interest rates and applied excessive charges during the many restructurings, thereby diverting funds from the business. They also complained that the bank failed to provide finance to enable the completion of the final plot, which would have facilitated repayment of the outstanding debt.

Our investigator looked at all the available evidence and concluded that the bank hadn't acted unfairly. He gave the following reasons, in summary:

- The arrangement fees were charged when restructured or new lending was set up. Arrangement fees are a normal part of agreeing commercial banking facilities, and were familiar to the partnership. The investigator didn't think it was unfair to charge the fees on these occasions.
- Several of the fees were for renewals for short periods, because of the frequency of reviews. Some of the fees were deferred, but where they were charged they were on an annual basis of 2% of the borrowing, which the investigator didn't think unreasonable. Even though the partners feel that the reviews were too frequent, it didn't result in them paying more – because in each case the fee was calculated proportionally on an annual basis.
- Given the expiry of the initial loan and the problems with the development, it was reasonable for RBS to carry out the reviews and to arrange the short renewals.

- The lending margins weren't unusually high for the time and weren't unreasonable in the circumstances. There was an outlier when a 5% margin was charged for some extra lending between April and October 2012 to aid completion of the project. But as this was new money and was accompanied by increased risk, and had a lower arrangement fee, the investigator didn't think it was unreasonable.
- The bank was supportive of the partnership in 2009 when it allowed £80,000 of the proceeds from selling the first plot to go to further work on the project, rather than towards repayment of the loan.
- Finance for the final plot wasn't part of the original agreement. RBS had made no commitment to support the development beyond the first phase, and the project was intended to be self-funding after that. Whether to lend for the final plot was therefore a matter for the bank's legitimate commercial discretion. The investigator didn't think the bank did anything wrong by not funding the final plot.

The partners didn't agree with the investigator's conclusions. Mr S made the following points, in summary:

- Even though the investigator's account was quantitatively correct, there were qualitative issues that were not entirely correct and deserve an airing. RBS subjected the partners to unscrupulous tactics, typical of those described in publicly available reports on GRG. Mr S said the nub of the partners' dissatisfaction was the emotional and nuanced strategy of RBS.
- As illustration, Mr S described two meetings which took place around 2009 or 2010. At one meeting, Mr S said the bank representative seemed interested only in the implicit threat of foreclosure, and not in the fact the partners had already reduced their debt. At the other meeting, when two of the partners had used an overdraft from their other business to support the partnership project, Mr S said the representative took advantage of the expiry of the overdraft to negotiate a new consolidated property loan at a higher margin. They had no option but to accept, as no other banks were lending on property at the time.
- It is a measure of the strength of the partners' financial position that they managed to meet all RBS's additional charges and managed to keep the partnership finances in check despite the hurdles to operating their businesses. They were strong enough to manage the stress and deal with the bank's unreasonable demands.

## **My findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done that, I'm sorry to tell the partners that I've reached the same conclusions as the investigator and for largely the same reasons.

I've looked carefully at the loan facilities agreed in 2009, 2011, 2012, 2013 and 2014. I'm satisfied that the arrangement fees and margins applied by the bank weren't unreasonably charged, or unreasonably high.

There's no doubt that the bank's general appetite for property lending changed after the initial loan reached its expiry. But the general economic environment had deteriorated and

the property market in particular was facing severe challenges. I wouldn't say it was unfair or unreasonable for RBS to have been more cautious about lending under those conditions, especially when the partners' project was behind schedule.

I appreciate that the partners felt that the project was viable and that, with additional support, it would have been able to do better than break even. They feel the bank should have provided enough finance to allow the project to pay its own way. But the bank was entitled to make its own risk assessments and its own decisions about whether to offer further lending. For that reason I don't think RBS acted unfairly or unreasonably when it declined to provide further finance for the project.

I don't doubt that Mr S is sincere about his recollection of the tone of the meetings mentioned above, although I have no other evidence to go on. The bank's attitude towards lending on property had changed and clearly there were uncomfortable conversations. But RBS also acted positively, in my view, by renewing the partners' lending for several years beyond the initial agreed phase when the project ran into problems.

I realise that the partners will be very disappointed by my decision. They endured financial and personal difficulties during these events, and I understand the strength of their feelings about their complaint. But after considering all the evidence, I don't think the bank acted unfairly or unreasonably.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs S and Mr and Mrs T to accept or reject my decision before 14 July 2021.

Colin Brown  
**ombudsman**