

complaint

Mr T complains that The Royal Bank of Scotland plc ("RBS") unfairly linked his personal account overdraft with his business banking and wrongly registered a default in relation to the overdraft debt.

background

As well as having his personal bank account with RBS, Mr T was a partner in two businesses that also banked with RBS. Following the death of one of the partners, RBS merged the debts and made a demand in respect of the total amount owing on the partnership accounts and on Mr T's personal account.

Mr T was then in communication with RBS about his personal debt and it eventually agreed to a repayment arrangement. Mr T considers it was unnecessary and unfair for RBS to link his personal account to the partnership accounts and says that he later became aware that RBS had registered a default in relation to his overdraft debt – which he believes it should not have done and says is preventing him from obtaining a mortgage.

RBS accepted that it had initially given Mr T inaccurate information about the date of the default and sent him a cheque for £100 in acknowledgement of that. However, RBS did not accept that its approach to the debt had been unfair and said that its normal process was for both the personal and business accounts to be transferred to its recoveries department in these circumstances. So it was unwilling to remove the default.

As things were not settled, Mr T brought his complaint to this service where it was investigated by an adjudicator. From the evidence, the adjudicator considered that RBS had given Mr T reasonable notice that his personal overdraft was being withdrawn and had notified him of the default. The adjudicator did not accept that RBS had been unfair to link Mr T's personal account to his business accounts. Overall, the adjudicator did not recommend that the complaint should succeed.

Mr T did not agree with the adjudicator's conclusions and said, in summary:

- It was inappropriate for RBS not to agree to disassociate his personal debt from the partnership debts.
- It was also unreasonable for RBS to make demand for the full balance before going on to register the default.
- He is not alone in feeling that RBS has acted in a way that was unethical and unfair.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. This complaint (and my final decision on it) relates purely to Mr T's personal account, and so any mention of the partnership accounts is made only in that context.

RBS has told us that its normal approach is to consider the customer's overall business and personal account position, rather than assessing the business and personal accounts in isolation. I have carefully considered whether, as Mr T argues, the effect of this approach was unfair in his case.

I find that it was not; Mr T was already aware that RBS had ongoing concerns about the partnership accounts, and he was not in a position to repay the debt on his personal account – which had remained continually overdrawn for many months prior to the formal demand. The personal account overdraft was repayable on demand. I am not persuaded that RBS had a duty to Mr T to treat his personal current account entirely separately from his other accounts with it and/or allow his overdraft facility to remain in place.

RBS gave Mr T reasonable notice of the withdrawal of the overdraft and prospective default. The later monthly repayment arrangement began many months after the default had already been registered, and Mr T subsequently repaid the debt. Contrary to what Mr T believed, RBS did not ever split the personal account from the partnership accounts – the accounts have remained linked.

In all the circumstances, I do not consider that RBS was unfair or unreasonable in its approach to Mr T and I find that it is not obliged to remove the default registration. RBS has accepted that there was a slight inaccuracy in the default date, which has since been put right and Mr T has received £100 in acknowledgement of that. I do not consider that RBS must do more.

my final decision

I have been sorry to learn of the financial difficulties that Mr T and his family have suffered. However, given my findings, my final decision must be that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr T to accept or reject my decision before 16 February 2015.

Jane Hingston
ombudsman