

complaint

Mr and Mrs K complain that The Royal Bank of Scotland Plc mis-managed their commercial loan. They ask for compensation for their financial loss.

background

Mr and Mrs K took out a commercial loan in 2005 secured by a charge on their business premises. RBS did not tell them their monthly payments had reduced when the interest rate fell. As a result, Mr and Mrs K made over-payments.

RBS accepted it had not complied with the terms of the loan and should have told Mr and Mrs K their monthly payments had reduced. RBS allowed Mr and Mrs K to make under-payments until the loan account was in the position it would have been in had the error not occurred. Mr and Mrs K say:

- They had to complain numerous times about errors.
- The over-payments caused them financial difficulties. They would have used the money to reduce their credit card debt.
- The £250 compensation offered by RBS is derisory and does not compensate them for their worry and stress or the additional interest on their credit card account.

The adjudicator recommended that the complaint should be upheld. She said while RBS had taken steps to put Mr and Mrs K in the position they would have been in had the error not occurred, the compensation offered was not sufficient. The adjudicator recommended compensation of £500. She said:

- She was not persuaded RBS was aware of Mr and Mrs K's financial difficulties.
- By making over-payments, Mr and Mrs K reduced the amount of interest they paid on the loan.
- While Mr and Mrs K would have been in a better position to reduce their credit card debt if they had not made the over-payments, there was no guarantee they would have used the money for this purpose.

Mr and Mrs K said £500 was not enough compensation. They said RBS was aware of their financial difficulties when they applied for an additional loan in 2011. Mr and Mrs K said they would have used the over payments to reduce their credit card debts. So RBS's error caused them a financial loss and it should compensate them for the additional interest paid to their credit card accounts.

my provisional decision

I made the following findings in a provisional decision sent to the parties in February:

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in

other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

RBS does not dispute it made errors here. It allowed Mr and Mrs K to make underpayments to put the loan account into the position it would have been but for the error. While it has offered compensation, Mr and Mrs K say the amount is not sufficient. In deciding what compensation would be fair and reasonable, I have taken the following into account.

- Mr and Mrs K raised their concerns with RBS about the over-payments a number of times over the years. RBS did not acknowledge its error until early 2014. I am satisfied this caused Mr and Mrs K unnecessary inconvenience and worry.*
- As Mr K told RBS in mid 2013 he had financial difficulties, I am not persuaded the time taken by RBS to respond to his complaint was reasonable.*
- Mr and Mrs K had the benefit of the over-payments. The balance of their loan was reduced, meaning they paid less interest on the loan overall. RBS say this is about £650.*
- The interest rate on Mr and Mrs K's credit card account was significantly higher than the interest rate on the loan. Had the over-payments been applied to their credit card accounts, their overall borrowing costs would have been lower.*
- RBS was made aware of Mr and Mrs K's financial position in 2011 and 2012 when they applied for an additional loan. They sent financial information to RBS, including the credit card debt. They told RBS they were only paying interest on the credit card debt and replacing the credit card debt with a loan would put them in a better financial position.*
- I am not persuaded Mr and Mrs K told RBS they were in financial difficulties in 2011 or 2012. Their adviser's letter requesting the additional loan says despite the credit card debt they had a good credit record and assets. It says their circumstances had improved as they received rent from a buy to let property and housekeeping from their children. The letter said the additional loan was to consolidate debt and pay for refurbishments.*
- Mr and Mrs K did not have use of the over payments at a time when they had to manage their finances carefully. Had the money been available, they could have used it instead of borrowing more expensively.*
- I am satisfied that Mr and Mrs K were concerned about the cost of their credit card debt and wanted to reduce it. I consider it likely had they had money available they would have used at least some of it to reduce the credit card debt.*

I find compensation of £500 for the inconvenience and worry caused by RBS's failure to respond appropriately to Mr and Mrs K concerns and delays in responding to their complaint to be fair and reasonable.

I also find it fair and reasonable to require RBS to pay compensation to Mr and Mrs K for the loss of use of the money. I am satisfied that Mr and Mrs K would have used some of the money to reduce their credit card debts. I also consider it likely Mr and Mrs K would

have been in a better financial position if they had been able to use this money in their business instead of borrowing on their credit cards.

Mr K says the additional interest paid to his credit card accounts was about £4,000. After deducting £650 of interest saved on the loan account, this makes compensation payable of £3,350. I invite RBS and Mr and Mrs K to comment on this calculation and provide evidence to support their comments.

Mr and Mrs K agreed with my provisional decision. RBS responded to say it had no additional comments.

my findings

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

Mr and Mrs K agreed with my provisional decision and RBS had no comments. I see no reason to change the findings set out in my provisional decision.

my final decision

My decision is that I uphold this complaint. In settlement of it, I order The Royal Bank of Scotland Plc to pay £3,850 to Mr and Mrs K.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs K to accept or reject my decision before 14 May 2015.

Ruth Stevenson
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