

## **complaint**

Mrs R, who trades as Business D, complains that The Royal Bank of Scotland Plc ("RBS") has allowed her to borrow more money than she could afford to repay.

## **background**

Mrs R is a sole trader operating as Business D. Her business account is held with RBS. Between 2008 and 2011 Mrs R's business account operated in an overdraft. In 2011, the overdraft facility was at £48,000. Mrs R applied for an increase of £3,000. RBS declined to increase the overdraft and it transferred Mrs R's business account to its Specialised Business Management team to help the financial situation of Business D.

In November 2011 RBS granted a loan of £30,000. This was to repay £28,000 of the overdraft and to give a further £2,000. The repayment for this loan was around £593. In 2013 RBS consolidated the business debt into one loan which repaid the first £30,000 loan and the overdraft. The loan was for £37,000 and the monthly repayment increased to £745.

Mrs R has since complained that she shouldn't have been allowed to borrow this amount of money. She's explained that she's had to sell her house to pay for this borrowing and it's put her in financial difficulties. RBS has said that it took the actions to place the account in Specialised Business Management to improve the finances of the business for Mrs R. It has also said this has worked and the business has reduced its debt and the outstanding debt is now a loan rather than an overdraft.

Our investigator didn't uphold the complaint. Firstly she explained to Mrs R that we couldn't consider whether the initial £48,000 overdraft was affordable or not because the complaint about the initial lending had been made too late. Under our rules we can't consider a complaint that has been brought to us more than six years since the date of the event or (if later) more than three years since the consumer ought reasonably to have been aware they had cause for complaint. In this case, the overdraft amount had been granted more than six years ago – and Mrs R would've been aware she had cause for complaint more than three years ago when she had to consolidate her debt and her account was moved to the specialised management team. But we could consider the complaint about the two consolidation loans – as the complaint had been made within six years.

Our investigator explained in her view that she felt the consolidation loans were affordable – in that the loans were consolidating existing debt – and that debt was now a loan rather than an overdraft facility that was repayable on demand. Mrs R explained that she has gone through some extreme personal financial difficulty to ensure she could repay the loans. She said she was led to believe she should take additional lending and this has put her in a difficult position personally. She asked for an ombudsman to review the complaint so it has been passed to me.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

### *Mrs R's financial situation*

Mrs R has told me about her financial situation at the time she received these consolidation loans. She has explained throughout this complaint that she was in financial difficulty and

has since provided statements showing her level of personal debt and the Debt Management Plan (DMP) that she was in. I can see that in 2011, when the first consolidation loan was granted, Mrs R had over £70,000 of personal debt which was being repaid through a DMP.

Mrs R has also told us that she sold her house to inject some capital into the business. This is supported by the notes that RBS has given us. But Mrs R explained that a lot of her personal borrowing was to subsidise her business. So it's clear to me that at this point – in 2011 – she may have been struggling financially. It's important to note at this point that I can't consider whether there were any affordability issues when Mrs R's business was given the overdraft – as I'm satisfied she has complained too late about this for the reasons our investigator has already explained. So I've looked at the two consolidation loans below.

#### *2011 consolidation loan*

In 2011 Mrs R's business account had been transferred to its Specialised Business Management team. At this point the account was operating in its overdraft and was very close to the £48,000 overdraft limit. Mrs R had asked for an increase in the overdraft but this was declined. Later it was agreed that RBS would convert some of her overdraft into a loan.

So Mrs R applied for a consolidation loan of £30,000. The purpose of this was to reduce the overdraft by £28,000 and allow the additional £2,000 to be used on the business. The notes that RBS made when considering the loan application show that by putting this consolidation loan in place, the business' repayments would decrease and be just under £600 per month. This was something that was budgeted for.

To me it's clear that Mrs R's financial situation meant it was unlikely to be suitable to lend her any further money for the business – however the effect of this consolidation loan was that it did reduce the monthly payments. And I can see that Mrs R had already requested this increase in the overdraft – so I think RBS found the best solution for the business at this time. It's worth saying that if it hadn't given this consolidation loan to Mrs R's business – it may have been necessary to default Mrs R if she couldn't repay the borrowing. The point of referring Mrs R's business to the Specialised Business Management team was to get the business back into a space financially where it was working. And by converting more than half the overdraft into a loan appears to have been in the best interests of her business. I say this because after the consolidation loan she was paying less in interest and charges. It was clear she was struggling financially at this point but the business already had a debt of around £48,000 so options were limited at this point.

#### *2013 consolidation loan*

At this point Mrs R had decreased her business overdraft and RBS suggested that she consolidate all of the remaining business debt (the overdraft and 2011 consolidation loan) into one loan. This was for £37,000 and had a monthly repayment of £745. It's important to note at this point Mrs R wasn't taking on any further business borrowing – this loan was for consolidation purposes only.

Having considered the notes RBS made when considering the loan I think it's important to note that I believe Mrs R was struggling financially. The analysis used by RBS to support the loan said the following:

*Strengths – customer buy in to success via cash injected*

*Weaknesses – cashflow will be tight to cover repayments*

*Opportunities – business margins improving and growth envisaged in remainder of year*

*Threats – potential for negative cashflow per above comments*

I think it's clear from this that the negatives outweigh the strengths – but as this was borrowing that Mrs R already had, RBS's options were limited. Until this point, Mrs R still had a large business overdraft – which is supposed to be a short-term facility repayable on demand. Converting the debt into a loan gives Mrs R the ability to manage the business knowing that each monthly repayment would be the same. I do think that had this analysis been for any additional significant lending to Mrs R's business, it would've been irresponsible to approve it. But the only other option at this point would be to default Mrs R's account and freeze interest – but the outstanding debt would still be the same and Mrs R would have a default registered against her. I think at this point, RBS carried out reasonable actions to try to help Mrs R avoid a situation like this. Ultimately, it seems like this was successful too in that Mrs R is still trading and has never had a default registered against her.

I can see that the business debt reduced and the account was transferred back out of the Specialised Business Management team. I can also see that Mrs R made every contractual monthly repayment. Whilst I understand that Mrs R's personal life has suffered under the financial stress of the debt she has, and she's explained that she's had to move premises and employ fewer people, I can't say RBS acted unreasonably in this situation. The debt was already in existence – RBS put a facility in place to ensure regular monthly repayments to repay this debt.

To summarise – I think it's clear Mrs R was struggling financially and this must have been a very difficult time for her. However I can only consider her complaint about the consolidation loans in 2011 and 2013. As there was minimal additional borrowing included in these loans, and she was paying less charges than her overdraft, I can't agree that RBS has acted unreasonably in approving these loans.

### **my final decision**

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R, on behalf of Business D, to accept or reject my decision before 23 November 2018.

Charlotte Wilson  
**ombudsman**