

Complaint

Mr K has complained that The Royal Bank of Scotland Plc (“RBS”) unfairly debited interest, fees and charges from his account when it ought to have realised that he was experiencing financial difficulty.

Background

One of our adjudicators looked at this complaint and thought RBS should have realised that Mr K was in financial difficulty by November 2013 at the latest and so it needed to refund any the interest, fees and charges it debited from Mr K’s overdraft from this point.

RBS didn’t respond to our adjudicator’s view. So the complaint was passed to an ombudsman for a final decision.

My findings

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

RBS will be familiar with all the rules, regulations and good industry practice we consider when looking at whether a bank treated a customer fairly and reasonably when debiting interest, fees and overdraft charges from a customer’s account. So I don’t consider it necessary to set all of this out in this decision.

Having carefully considered everything provided, I also think RBS acted unfairly when it continued debiting interest, fees and associated charges from Mr K’s account from November 2013 onwards.

By this point, RBS was debiting significant overlimit fees for the third month in succession. RBS will be aware that the relevant guidance and good industry practice in place at the time makes it clear that an increasing dependence on an unauthorised overdraft – such as Mr K’s account was displaying – was considered a sign or an indication that a customer may be in financial difficulty.

In these circumstances, I think that RBS ought to have done more to establish Mr K’s financial position before debiting further charges. If it had done this here then it would have seen that Mr K was already struggling and using payday loans and other high cost credit in order to make ends meet. So I think that by November 2013, RBS should have realised that Mr K was struggling financially and treated him with forbearance rather than debiting even more fees and charges from his account.

As RBS didn’t react to Mr K’s account usage and instead continued charging in the same way, I think it failed to act fairly and reasonably towards him. And as this led to Mr K paying additional interest, fees and charges at a when he was already experiencing difficulty, I’m satisfied that he lost out as a result of RBS failing to act fairly and reasonably towards him. So RBS needs to put things right.

Fair compensation – what RBS needs to do to put things right for Mr K.

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mr K's complaint for RBS to put things right by:

- Reworking Mr K's account so that all interest, fees and charges applied to it from November 2013 are removed.

AND

- If an outstanding balance remains on Mr K's account once these adjustments have been made RBS should contact Mr K to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Mr K's credit file, it should backdate this to November 2013.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr K along with 8% simple interest† on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then RBS should remove any adverse information from Mr K's credit file.

† HM Revenue & Customs requires RBS to take off tax from this interest. RBS must give Mr K a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained, upholding Mr K's complaint. The Royal Bank of Scotland Plc should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 19 August 2021.

Jeshen Narayanan
Ombudsman