

The complaint

Mr W complains that The Royal Bank of Scotland Plc (RBS) continued to report a debt on his credit file despite it being included within an Individual Voluntary Arrangement (IVA) that was settled in July 2020.

What happened

Mr W entered into an IVA in 2018. This was supervised by a licensed Insolvency Practitioner (IP). The IVA included various debts owed by Mr W including an amount owed to RBS. The IVA had been advised to RBS, at the time, and they'd voted in favour of and were bound by the arrangement.

As a result of the IVA, RBS placed the outstanding debt in default and recorded this on Mr W credit file with the credit reference agencies. Mr W's debt was then managed by a dedicated recoveries team, operated by a third party on behalf of RBS.

Mr W's IVA completed in July 2020. The IP issued a certificate to him confirming this. This released Mr W from any further liability to the unsecured creditors bound by the arrangement.

In October 2021, Mr W was trying to 'port' his mortgage. He discovered RBS were still reporting the debt to the credit reference agencies as in default and outstanding. He didn't think this was right, so he complained to RBS. He thought they should've written off the remaining debt and removed the default from his credit file.

RBS replied to Mr W in October 2021. They said the default would remain on Mr W's credit file for six years and they hadn't made an error. Mr W didn't agree with RBS. He thought they should remove the default from his credit file. He said RBS's actions had caused him significant distress and worry which led to stress related health problems. So, Mr W decided to refer his complaint to this service.

Having looked into Mr W's complaint, our investigator agreed RBS hadn't treated him fairly. But this was for slightly different reasons. Our investigator found that upon completion of the IVA, RBS should've written off any remaining debt. They should also have updated Mr W's credit file to show the debt as partially satisfied. But they hadn't done that here. Our investigator thought RBS should pay compensation of £200 to Mr W to reflect any distress and inconvenience caused.

RBS agreed with our investigator's findings and recommendation.

Mr W didn't agree with the amount suggested. He thought RBS should pay him £750. He said he'd been offered this by another business in respect of a complaint. He thought this better reflected the impact on him.

As an agreement couldn't be reached, Mr W's complaint has been referred to me to consider.

What I've decided – and why

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

An IVA is a flexible procedure allowing Mr W to compromise with his creditors. It's a recognised insolvency process and acts as an alternative to bankruptcy. It includes all unsecured debts owed by Mr W and details an agreed level of repayment over an agreed time period. At the end of the process, the unsecured creditors within the IVA then write off any remaining debt and release Mr W from any further liability.

An IVA must be approved by at least 75% of the voting creditors based upon the level of debt owed. A supervisor is appointed and agreed by the creditors to administer the IVA. This is a licensed IP. The IP is also responsible for notifying any progress under the IVA, including its eventual completion.

I've been provided with, and looked at, various documents from RBS, Mr W and the IP who supervised Mr W's IVA.

Mr W provided a copy of his credit file which shows the debt with RBS in default together with an outstanding balance owed.

The IP has provided a copy of his closing report. This is a document summarising the position within the IVA at the point of completion. It shows all funds recovered and distributed to Mr W's creditors. It also confirms completion of the IVA. In this case, around the end of July 2020.

RBS said they hadn't been informed of the IVA's completion. They said they check the individual insolvency register regularly for any updates using the "insolvency direct website". In Mr W's case, they say they hadn't received any updates since 2018.

The IP provided evidence to show that all the update documents issued, including the closing report, were sent to RBS's recovery team. This also shows the documents were recovered and downloaded by RBS's recovery team. In particular, they downloaded the completion report the day after it was sent to them. The IP did admit that the individual insolvency register hadn't been updated - this has since been updated. But I believe RBS were sufficiently made aware of the IVA's completion to prompt them to update their files and records.

I've considered the Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies. These are set by the Information Commissioner's Office (ICO). They confirm that a default should be registered when a lender is notified that a debt owed to them is included in an insolvency process. This includes an IVA. So, RBS were right to record the default on Mr W's credit file.

The principles also say that if full or part payment is received and no further money is expected, the account should be closed. The account should be marked as fully paid if the amount owed was paid in full. The record should be marked as partially settled if the lender accepts settlement for an amount less than the balance owed. In Mr W's case, the amount owed wasn't repaid in full under the IVA. So, RBS should've reported this as partially settled. But while the default will remain, it shouldn't be reported as an active account anymore.

I believe RBS were adequately notified of the completion of Mr W's IVA. So, they should've updated his credit file in line with the ICO's principals. RBS have confirmed they've now done this. But I think they should've done this sooner. So, I will reflect that within my decision.

Mr W believes RBS's mistake had a negative impact on his credit file causing problems when he tried to port his mortgage. I accept RBS made a mistake here. But it's relevant to say that the IVA, and the default, will still remain on Mr W's credit file for six years. So, I can't fairly say that RBS's mistake would've been the sole reason Mr W experienced problems. Mortgage applications consider many things, including all of the information recorded on Mr W's credit file.

I am very sorry to hear that Mr W has experienced a number of health difficulties. He says this is due to the financial stresses he's experienced. Compensation is a personal thing. What is seen as reasonable by one party may not be considered so by another. Mr W did experience some inconvenience. But I think the amount suggested feels fair in all the circumstances here. I appreciate that Mr W doesn't agree. But it isn't the role of this service to make awards in order to punish RBS for their mistakes. Any award is based upon the impact RBS's mistake had upon Mr W. And I think it does that here.

My final decision

For the reasons set out above, I uphold Mr W's complaint.

I require The Royal Bank of Scotland Plc to pay compensation of £200 to Mr W.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 8 June 2022.

Dave Morgan
Ombudsman