

The complaint

Mr Y complains that The Royal Bank of Scotland Plc (RBS) didn't keep their promise to remove negative information, including defaults, from his credit file.

What happened

I issued a provisional decision on 20 April 2024, and this is what I said:

I've considered the relevant information about this complaint.

Before I issue my final decision, I wanted to give everyone a chance to reply.

I'll look at any more comments and evidence that I get by 4 May 2024.

But unless the information changes my mind, my final decision is likely to be along the following lines.

The complaint

Mr Y complains that The Royal Bank of Scotland Plc (RBS) didn't keep their promise to remove negative information, including defaults, from his credit file.

What happened

In 2021, Mr Y brought a complaint to our service against RBS. This was about irresponsible overdraft lending on two bank accounts. Mr Y says our service found in his favour, and it was:

- 1. Agreed that:*
 - RBS would 'Remove all negative information from my credit file and all interest/charges'*
- 2. Understood, by all parties, that:*
 - For 'an outstanding amount' of credit 'I would arrange a payment plan when the negative information on my credit file and the interest charges on both accounts had been removed'*

Mr Y's complaint is that RBS 'didn't keep their promise' on the above 2 actions.

Also, he thinks the 2 accounts he defaulted on shouldn't still be appearing on his credit file. And 'as a result of the defaults my credit score has been significantly damaged and left me in a position where I have been unable to purchase a home which was what I have been intending to do for the last 3 years. This has caused unimaginable damage to my personal life'.

Mr Y brought his complaint to our service and is seeking:

- 'Removal of any negative information on my credit file in relation to both bank accounts':*
 - Including default information*

- ‘£10,000 in damages for the harm that their actions and lack of care have caused me as well as clearing any balance owed to them from the accounts’

Our investigator didn’t think RBS had acted fairly and said RBS should:

- Pay Mr Y £300 compensation for the impact of having negative information incorrectly recorded on his credit file and for failure to set up a repayment plan as agreed
- Backdate the defaults to November 2019

RBS agreed but Mr Y remains dissatisfied. So, he has asked for an Ombudsman to further consider his complaint points as he feels our investigator has misunderstood these.

What I’ve provisionally 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.

Having done so, I agree with our investigator and I’m also upholding this complaint. I’ll explain why and will focus on what I think are the important points to reach a final decision. But I’ve carefully considered all the points Mr Y has made, even if I don’t specifically address them all.

Our service issued a view which RBS agreed with at the end of 2021. It’s clear our investigator thought RBS had acted unfairly and this was:

- ‘Charging overdraft fees from November 2019’
- Providing the overdraft

Our investigator went on to say, ‘I think RBS should rework Mr Y’s account to remove all of the interest and charges added to his account from November 2019’ and the ‘settlement’ section of her view said the following:

- I think RBS should now settle Mr Y’s complaint as follows:
 - A. Re-work his current overdraft balance so that all interest, fees and charges applied to it from November 2019 onwards are removed.
And
 - B. If an outstanding balance remains on the overdraft once these adjustments have been made RBS should contact Mr Y to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on his credit file, it should backdate this to November 2019.
Or
 - C. 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 Y 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 his credit file.

Regarding bullet Point A:

- The ‘re-work’ referred to was interest, fees and charges on his ‘current overdraft balance’ and I can see RBS refunded these amounts.

Regarding bullet Point B:

- As an outstanding balance on both accounts remained bullet point B rather than C applied
- It’s clear RBS didn’t backdate negative credit file information to November 2019 and

- RBS didn't contact him to arrange a suitable repayment plan*
- *Defaults occurred in October 2022 and September 2023. Mr Y thinks these should be removed from his credit file rather than backdated to 2019. This is because of the following comments in RBS' final complaint response letter:*

'I have emailed the credit reference agency and requested negative data be removed from the account from 16 November 2022 until today 14 December 2023' and 'Turning to your third issue, as explained above I have emailed the credit reference agency and requested the adverse data is removed from the account. I agree with this issue also.'

- *Mr Y appears to suggest it was the investigator's intention for the defaults to be removed. In addition, the defaults continue to have a significant impact on him.*

I'm very sorry to hear of the distress that the credit file default information is causing Mr Y and I can fully understand the impact and him wanting this to be removed.

Although our investigator commented, in 2021, that the overdraft shouldn't have been provided, the settlement (which she proposed, and RBS agreed to) was clearly to backdate rather than remove negative information. And having reviewed RBS' complaint response letter, whilst I appreciate it could've been clearer, I'm also not persuaded that the representative meant or was referring to the defaults being removed.

Also, RBS have a responsibility to provide accurate information to Credit Reference Agencies (CRA's). Although I can't see they made the contact stated in the settlement, after refunding Mr Y, his accounts exited their debt management in December 2021 and there is evidence that RBS sent letters and tried to call Mr Y (leaving telephone messages) to inform him that they needed to collect overdraft payments from him.

So, although I'm satisfied that they didn't follow the settlement, they did make efforts to contact Mr Y. And, as Mr Y knew he was in debt, I also think he could've contacted RBS sooner. Also, Mr Y had the option of contacting our service so we could remind RBS.

Although I'm not asking RBS to remove the default markers, as I'm satisfied they made service errors on a matter that had already caused distress, I do think Mr Y should receive compensation for them not following the agreed settlement.

Assessing compensation isn't an exact science and our approach when making awards for non-financial loss is detailed on our website and tends to be modest.

Having reviewed our guidance together with the above and the file, whilst I appreciate Mr Y will be disappointed, I think the £300 compensation recommended by our investigator is fair and reasonable.

So, I'm partially upholding this complaint and I require The Royal Bank of Scotland Plc to:

- *Pay Mr Y £300 compensation*
- *Backdate the defaults to November 2019*

My provisional decision

For the reasons I've given above, it's my provisional decision to partially uphold this complaint and I require The Royal Bank of Scotland Plc to:

- *Pay Mr Y £300 compensation*
- *Backdate the defaults to November 2019*

I'll look at anything else anyone wants to give me – so long as I get it before 4 May 2024.

Unless that information changes my mind, my final decision is likely to be as I've set out

above.

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.

I didn't receive a response from either party.

So, with no further arguments or evidence having been produced in response to my provisional decision, my view remains the same.

I therefore adopt my provisional decision and reasons as my final decision.

My final decision

My final decision is to partially uphold this complaint and I require The Royal Bank of Scotland Plc to:

- Pay Mr Y £300 compensation
- Backdate the defaults to November 2019

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 5 June 2024.

Paul Douglas
Ombudsman