

The complaint

Mrs L complains that The Royal Bank of Scotland Plc didn't capitalise her mortgage arrears. She asks that it capitalises arrears and offers an affordable repayment plan and decent compensation.

What happened

RBS said it would capitalise Mrs L's arrears if she made payments for six months. This didn't happen due to an error with RBS's systems. Mrs L made a complaint in mid-2022. In response, RBS said it would capitalise Mrs L's arrears and set out the steps she'd need to follow. It also offered compensation.

Mrs L raised a further complaint in early 2023, that RBS hadn't capitalised the arrears or paid the compensation and it had given her inaccurate information.

An ombudsman issued a decision saying that we could only look into the complaint Mrs L raised in early 2023. She said Mrs L's previous complaint had been brought to us more than six months after RBS issued its final response and was therefore brought to us outside our time limits.

Our investigator said there was no evidence that Mrs L had contacted RBS after August 2022 about capitalising the arrears, or that she'd returned the completed paperwork. He said RBS had now paid the compensation. Our investigator said as there were no payments into the account after November 2022 it wasn't unreasonable for RBS to start recovery action.

Mrs L said RBS denied her access to her online account and refused to speak to her after November 2022. This meant she couldn't check what was happening with her account. Mrs L said she returned the completed paperwork and most likely RBS lost it. She said she told RBS she wouldn't make payments until the arrears were capitalised and didn't consider it right to start action for possession after two missed payments. Mrs L said the investigator hadn't addressed her complaints about poor service. She said she was selling the property.

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 should explain that 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. I can assure Mrs L that I have read and carefully considered the information and evidence she's provided.

Capitalisation of arrears

RBS issued a final response letter (FRL) in August 2022. RBS said it would capitalise Mrs L's arrears. It said she would need to contact its financial assistance team to discuss the contractual monthly payments after this and the next steps. It said Mrs L should make

payments when due as any late payments could compromise the capitalisation. RBS put a 30 day hold on recovery action, to give Mrs L time to contact it.

RBS's records say it tried to contact Mrs L in mid-October 2022 without success. It says it received no contact from Mrs L until early November 2022 – this was after it issued a notice of possession proceedings. RBS's notes support this. Mrs L hasn't provided evidence that she did try to contact RBS – such as phone records.

Following the contact in early November 2022 RBS sent paperwork to Mrs L for her to complete and return for the capitalisation process. Mrs L says she completed and posted the paperwork. RBS said it didn't receive the completed paperwork. Mrs L said RBS might have lost the paperwork. While I agree that's possible, there's no evidence that's the case.

Mrs L said she wasn't asked for evidence she'd returned the paperwork – such as proof of postage. Mrs L has had ample opportunity to provide such evidence to us, if she has it. Mrs L withheld the payment due in December 2022. I'm not sure why if she'd do this if she'd returned the necessary paperwork and thought the capitalisation was going ahead.

RBS says it sent chasers by text and email in December 2022. It's unfortunate if Mrs L didn't receive the chasers, which might have alerted her to the paperwork not having been received. It's also unfortunate that the completed paperwork wasn't received by RBS. But I can't fairly find that this was due to an error by RBS without evidence this was the case.

Based on the available evidence, I can't fairly find that RBS made an error or acted unfairly when it didn't capitalise Mrs L's arrears in late 2022.

Action for possession

When Mrs L spoke to the recoveries team she was told the account would be put on hold which would cancel the notice of possession proceedings. RBS says there was an inference that the notice was issued incorrectly. It says this wasn't the case. The notice was issued because of the arrears and Mrs L's failure to make contact to continue with the capitalisation.

RBS said the hold wasn't indefinite and as it didn't receive the completed paperwork from Mrs L and she didn't contact it further about the capitalisation it instructed solicitors. Mrs L says she refused to make payments after receiving the notice of possession proceedings. But, whatever her reasons, there were already arrears on the account and Mrs L failed to make monthly payments after November 2022. Her arrears increased and she no longer met criteria for capitalisation. In the circumstances, I don't think it was unfair for RBS to take recovery action.

Payment of compensation

RBS sent a cheque to Mrs L for £250, being the £150 offered in August 2022 and another £100 for the trouble and upset caused. I think, in the circumstances, this was fair and reasonable.

I don't think it's fair and reasonable in the circumstances to require RBS to take further steps regarding Mrs L's mortgage account or pay further compensation.

Mrs L says she didn't cash the cheque and has no intention of doing so. It's possible the cheque has expired. For completeness, we checked with RBS and it said it would need to check that the compensation hasn't been paid, but subject to this could arrange to pay the compensation. I leave it to Mrs L to decide if she wants to accept the compensation, and if that's the case and the cheque has expired, contact RBS.

My final decision

My decision is that I do not uphold this complaint. That's because I think the compensation offered by The Royal Bank of Scotland Plc is fair and reasonable in the circumstances.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 18 December 2023.

Ruth Stevenson
Ombudsman