

The complaint

Miss J has complained that Bank of Scotland plc ('BOS') has, on several occasions, provided her with an incorrect balance in relation to a debt.

What happened

In 2010 a court separated a debt owed to BOS by Miss J and her former partner, and each was required to separately pay £12,500 at a rate of £75 per month. Miss J duly made payments to a debt collection agency appointed by BOS.

BOS wrote to Miss J in May 2018 to advise it was transferring the debt to a different debt collection agency. At that stage it listed the account balance as £4,130. The debt collection agency also wrote to Miss J on the same day and provided her with the same account balance. It asked Miss J to ensure all future payments were made to it and advised that Miss J would need to set up a new payment plan.

The debt collection agency then wrote to Miss J about a year later and listed her account balance as £17,450.85. In the main body of the same letter, it said the balance was £10,915 and payments of £1,585 had been made. It provided Miss J with a list of payments made since 2011. Miss J complained to BOS that none of the balances provided seemed to be correct and that she hadn't been provided with a list of payments.

BOS responded in August 2019 and didn't uphold the complaint. It said the debt collection agency was aware it provided the wrong outstanding balance. BOS said the correct outstanding balance was £10,915. It said there were issues with payments as some were made in error to the first debt collection agency, when they should have been made to the new debt collection agency. BOS said the new debt collection agency had advised Miss J that she should send proof of payments and it would look into the matter further.

Miss J was unhappy with the response. She complained to our service and said she wanted the following:

- a statement from BOS showing all payments received and the total amount owed
- an understanding of what figures BOS passed to their debt collectors
- to know why the collection agency are chasing an amount they know to be wrong
- an official rebuke against BOS for its behaviour

Our investigator said he's seen copies of Miss J's bank statements showing that payments had been made regularly for many years. And he said the total of these payments seems to far exceed what BOS said it has received. He said BOS told him that although the original debt with Miss J's former partner was split, BOS had been entering payments from both parties on one account and then attempting to move payments to the correct accounts.

Our investigator said, overall, he didn't think BOS has kept a good record of the account and the outstanding amount doesn't appear to be correct. He said to put things right, BOS need to liaise with Miss J and Miss J should provide a record of her payments to BOS, so that it can correctly calculate the outstanding balance. He also asked BOS to pay Miss J £200 compensation for the trouble and upset caused.

BOS said when a consumer disagrees with the amount outstanding, it's up to the consumer to provide proof, such as bank statements, of what payments the consumer made. It accepted our investigator's assessment and agreed to pay £200 compensation.

Miss J responded to our investigator and was initially reluctant to agree to provide her payment history to BOS. She first of all wanted to know how BOS arrived at the balance figure it sent to her and wanted it to trace the funds through the references it gave her to use. Our investigator said this wouldn't make a difference to resolving her complaint - to know how and why BOS haven't provided the correct balance isn't going to help to put this right. He said the way to put this right is for Miss J to provide her payment history to BOS.

Miss J is reluctant to provide her payment history to the current debt collection agency as she believes the problems she's had started with it. She said she would do it only if she was given the name and contact details of a manager there who has the authority to deal with the correction of the errors. BOS said it's not for managers to liaise with consumers to sort out balance shortfalls. It said the debt will remain at the current level until Miss J provides her payment history. So this complaint has come to me to review.

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. Having done so, I'm upholding this complaint in part.

I've taken note of all the arguments and comments made, but I've limited my response to the issues I consider to be central to this complaint. That is whether Miss J has been provided with an incorrect balance and what steps might need to be taken to put this right.

When BOS appointed a new debt collection agency in 2018, some discrepancies with the outstanding balance owed by Miss J came to light. These discrepancies appear to have arisen in part because BOS entered payments made by both Miss J and her former partner into a single account instead of into separate accounts. It then split the payments proportionately across each individual debt. In addition, payments were incorrectly made to the former debt collection agency for a period of time by Miss J and this may have also contributed to the wrong balance being calculated.

I can see that the outstanding balance provided by the former debt collection agency in 2013 was £10,475. I can also see from the bank statements Miss J has provided us with that she has often made payments of £75, then £85 per month. So although I don't know how much Miss J's outstanding balance is – that's for BOS or its agent to calculate – I'm satisfied it's highly likely the balance outstanding should now be quite a lot less than it was in 2013 and therefore less than the balance of £10,915 provided by BOS in 2019. So I'm satisfied BOS is more likely than not to have made an error and provided Miss J with an incorrect balance.

BOS has asked Miss J to provide it with a list of all of the payments she believes she's made to it. It said if a consumer feels that an account balance is incorrect, it's up to the consumer to provide information to show if that's the case. In order to minimise the inconvenience to Miss J and to try to provide a speedy outcome, our investigator offered to provide BOS with the payment information Miss J had given to us, but she declined.

I'm satisfied that the best way forward is for Miss J to provide her payment history to BOS and for BOS to reconcile the two sets of payments, so it can provide the correct outstanding balance to Miss J. Although I realise this will inconvenience Miss J, and ultimately it's outside my remit to tell Miss J what to do, I can't see any other way for BOS to know what payments have actually been made by Miss J. It simply doesn't seem to have the correct payment history and her input is needed. Ultimately, it's up to Miss J if she wants to do this, but I think it's the best next step.

I can see that Miss J has agreed to do this, but she doesn't want to provide the information to the debt collection agency unless she's provided with the name and contact details of a manager who has the authority to deal with the correction of the possible errors. BOS said Miss J should contact its specialist team rather than a manager and it's provided a contact number. I think BOS acted fairly when it asked Miss J to ring its specialist team. It's for BOS to decide who is best placed to deal with Miss J's query and it is allowed to ask any agency to carry out work on its behalf.

Turning to the question of compensation, although BOS hasn't had the opportunity to reconcile their list of payments received with Miss J's list of payments made, it has accepted that our investigator has seen both payment histories and considers it's highly likely BOS are at fault and Miss J owes less money than it thinks she owes. And this is why it's agreed to a compensation payment of £200, in advance of Miss J actually providing it with her payment history. I'm satisfied this is the right amount of compensation for the inconvenience Miss J has already experienced and is likely to experience, if she provides her payment history.

Miss J is also concerned that BOS may have breached a court order by not separating the debts owed by her and her former partner. This isn't something our service can look at. If Miss J feels the order has been breached, then she would need to take this back to the relevant court for it to decide whether a breach has happened.

Miss J has also said she would like a copy of her entire customer record with BOS. Again, this isn't something our service can deal with, so Miss J will need to make a subject access request directly to BOS.

My final decision

My final decision is that I uphold this complaint in part and ask Bank of Scotland plc to pay Miss J the sum of £200 compensation. I also require it to ensure that it, or any agency working on its behalf, reconciles its payment history with Miss J's payment history, if Miss J provides it with this information.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 17 July 2020.

Martina Ryan
Ombudsman