

The complaint

Mrs B complains Bank of Scotland Plc, trading as Halifax, is unfairly holding her liable for a credit card debt. She says the debt belongs to her ex-husband who opened the account in her name without her knowing.

Halifax says there is no evidence to suggest the account was opened fraudulently and is holding Mrs B liable.

Mrs B is helped in her complaint by Mr B – but for ease, I will refer to all submissions as if made by Mrs B.

What happened

In March 2006, a credit card account was opened in the name of Mrs B. The account was opened in branch and there was regular spending on the account until 2012 when it was defaulted.

Halifax says it sent monthly statements to Mrs B's address at the time. In its initial submissions to this service It also said regular payments were made to the credit card from the joint current account which Mrs B held with her ex-husband and on one occasion a payment of over £2000 was received to pay off the balance in full. Halifax also relies on the type of spending in its submission where it says it is holding Mrs B liable.

In 2014, Halifax sold the debt on to a third-party debt management company who subsequently managed to obtain a judgement in default against Mrs B for the debt owed.

But Mrs B says she had never applied for this credit card. She says she left the former matrimonial home in 2013 and the first she knew about the debt was in August 2019 when debt collectors arrived at her new address seeking recovery. She thinks her husband most likely intercepted the statements every month.

Mrs B said she had written to Halifax to let them know of her change of address and provided this service with a letter dated February 2014 where Halifax acknowledged the change. She says Halifax failed to send any letters regarding the credit card to her new address. If it had, she would have responded sooner.

When Halifax rejected Mrs B complaint, she came to this service and asked that we look into matters for her.

Our investigator thought Barclays could have done more. She (the investigator) thought it was likely Mrs B hadn't known about the account and so asked that Halifax inform the debt recovery company that it was no longer to pursue Mrs B, to clear the account from her credit file and pay £200 compensation for the distress and inconvenience. Halifax did not agree and asked for an ombudsman's decision.

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.

Mrs B says her relationship with her ex-husband was a difficult one and I have no reason to doubt that. In most recent submissions, she told this service that he was controlling financially, he would open her mail and dealt with all the finances.

Her evidence is that she knew nothing about this account.

Halifax told us payments were made to the credit card account from the joint current account until February 2011. But when we asked for evidence to support this submission, we were told more recently that this was not what it was saying. In recent submissions it simply said payments were being made to the account – but not from the joint account. In evidence, it sent us a screen shot of one manual payment with no other evidence as to where it came from.

And it's right that despite updating Mrs B's address in 2014, it sent no further correspondence about the account to her. Halifax said this was because the account had already defaulted by then. But by not updating the third-party debt recovery company, it meant Mrs B did not become aware of the debt until a county court judgement had been entered against her. And I remind myself that Mrs B was a customer of Halifax throughout this time.

Halifax further submits that the spend on the credit card suggests Mrs B was using it or at least was benefitting from its use. It also asks me to consider how similar the spending across the two accounts was.

I can't be certain Mrs B didn't benefit from the spending on the account – but I don't need to be certain. I must be satisfied on balance that she did not - and I am so satisfied.

Finally, I am told this account was opened in a branch and that the signature on the account is very similar to Mrs B's. I have seen no evidence to suggest the account was in fact opened in branch and the application form is faded so I can't make any comparison against Mrs B's signature.

In the circumstances and taking into account the evidence provided by both parties, I think it's more likely than not that Mrs B did not know about this credit card account and so it follows, she knew nothing about the spending and Halifax cannot fairly hold her liable.

Putting things right

Bank of Scotland Plc, trading as Halifax, must:

- no longer pursue Mrs B for this debt – including instructing their third-party debt recovery agents that they must no longer pursue Mrs B
- clear any trace of this debt from Mrs B's credit file
- pay Mrs B £200 for the distress and inconvenience caused in bringing this complaint

My final decision

My final decision is that I uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 18 February 2021.

Shazia Ahmed
Ombudsman