

The complaint

Ms B complains that Bank of Scotland plc trading as Halifax sold the debt from her loan to a third party, although she says it knew that she was unwell at the time.

What happened

Ms B took out a loan with Halifax in early 2009. She had difficulty making the payments, and her loan was defaulted in 2010.

Ms B said that she'd recently found out that Halifax had sold this loan back in 2013. She said it shouldn't have done that, because it knew about her ill health. She said it should've kept this loan in house.

Ms B has told us about the significant mental health issues she's faced since 2013, and about the personal difficulties this led to. She has explained that people who cared for her at the time were hiding correspondence from her, because of her mental health issues. That's why she'd only found out in May 2019 that this debt had been sold.

Halifax said that Ms B had complained about her loan in February 2013. Halifax said that it had written to Ms B then to ask her for more information about her ill health, as well as details of her financial situation. But although it waited some time, it never received a reply.

Halifax said it sold this loan to a third party in June 2013, and it wrote to Ms B to tell her this in late July 2013.

Halifax didn't think our service could consider this complaint, because of the length of time that has passed, but an ombudsman at our service has decided we can look into this.

Our investigator didn't think this complaint should be upheld. He said that at the time when Ms B's loan was sold, the Lending Standards Board's (LSB) code applied.

That code covers actions businesses should take if they are thinking about selling a debt to a third party. If a customer is in financial difficulty, the business can still sell the debt, but they should make the third party aware of the customer's financial difficulty and ensure relevant protections are in place.

But our investigator said that businesses aren't supposed to sell the debt if the customer has an ongoing mental health or critical illness that affects their ability to repay the debt, provided the customer has shown evidence of this.

Our investigator didn't think Halifax knew that Ms B was unwell. He said it wrote to her in February 2013, to say it could offer help with her loan debt, but Ms B would need to confirm that she would commit to setting up a repayment plan. To help with this, Halifax requested details of Ms B's income and expenditure. And it also asked for details of her medical condition.

Halifax has told us it never received any reply. Our investigator said that he understood that it was around this time that Ms B experienced significant mental health issues. But he just didn't think Halifax knew about Ms B's financial difficulties or mental health issues. And he thought it was fair for Halifax to wait four months for a reply before it sold the debt. So he didn't think Halifax had done anything wrong when it sold this debt.

Ms B didn't think that four months was a reasonable time period for her to have got in touch with Halifax. Because she didn't agree with our investigator, this case was passed to me for a final 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.

I've reached the same overall conclusion on this complaint as our investigator.

I appreciate that Ms B has been very significantly unwell, and I understand why those closest to her took the decision not to show her post that was sent to her at the time. I do hope she's now starting to feel better.

But what I have to look at here, isn't whether Ms B was very unwell. I think all those involved in this case now accept that she was. What I have to think about, is whether Halifax knew about this at the time.

I agree with our investigator, that the LSB code applied at the time of this debt sale. So if Halifax knew about Ms B's mental health, then it ought to have considered whether it was appropriate to sell this debt. But I've not seen anything to make me think that Halifax had been sent the evidence it requested, to show just how unwell Ms B was, before it sold this debt. So, although I understand that Ms B was very seriously unwell at the time, I don't think Halifax knew about the extent of Ms B's illness.

Ms B has said that four months wasn't a reasonable time period for her to have responded to Halifax. But the LSB code which applied at the time suggested that businesses should allow a period of 28 days. That makes me think that a period of four months was a reasonable time for Halifax to allow for a response.

Because Ms B hadn't contacted Halifax during this time, and particularly because Halifax hadn't received anything in response to its request for further information and evidence about her illness, I don't think Halifax did anything wrong when it sold Ms B's debt.

I know Ms B will be disappointed, but I don't think this complaint should be upheld.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 1 February 2021.

Esther Absalom-Gough

Ombudsman