

## **The complaint**

Mr S complains Bank of Scotland plc (BOS) sold his loan account to a third party after being told the loan had been written off with no further payments required.

## **What happened**

Below is intended to be a summary of what happened and does not therefore include a full timeline or list every point that has been made.

Mr S took out a loan with BOS in 2005. In 2006 the loan defaulted, which lasted until around 2012. Mr S had been making nominal payments of around £5 per month to the balance since 2015.

Around November 2018, Mr S said he noticed the account had been marked as 'settled' on his credit file. He called BOS for clarification on what this meant. During the call BOS advised Mr S the loan had been closed – and BOS had written to him in September 2018 to tell him this. Mr S said he hadn't received a letter, so BOS said they would look to send this to him again. Mr S called BOS back a few days later as he still hadn't received anything from them. Again, BOS advised the loan had been written off and the account had been closed – but they said a letter couldn't be sent because the loan had been written off.

Mr S says he called BOS again in December 2018, seeking clarification the loan had been written off, and again was told it had been - and no further payments were due. Following this Mr S says he took out a mortgage in early 2019, with no mention of the loan when he made the application. But later he received a letter from a third party to say it now owned the account – and he would need to contact them to arrange payment. Mr S complained to BOS.

BOS said access to the system the loan was on was limited – and not available to all staff. So it could be difficult to gain accurate information about it. BOS said the account was 'written off' due to bad debt, but this didn't mean he no longer had to pay the balance. They admitted they had given Mr S incorrect information and offered him £250 compensation. Mr S was unhappy with their response, so he brought his complaint to our service.

Our investigator recommended we uphold Mr S' complaint. He said from the information available, he was not persuaded it had always been BOS' clear intention to sell the account to a third party – and they had not provided specific and relevant reasoning for doing so. He recommended BOS bring the account back from the third party and write off the outstanding balance from the account.

BOS didn't agree with our investigator and provided further points to be considered. The complaint then passed to me.

## **My provisional decision**

I issued a provisional decision on 27 January 2021. In my provisional findings, I said I intended to uphold the complaint and require BOS to write off the debt, for the following reasons:

*“The relevant guidance says financial businesses must be clear when it comes to communication, relating to accounts with an outstanding balance and due to be sold to a third party.*

*We asked BOS to provide an explanation or rationale regarding selling the account to a third party. But from what they have been able to provide, I’m not persuaded they always intended to sell this account.*

*I can see notes provided by BOS show the account was sold in September 2018 – and notice of assignment letters were sent to Mr S shortly after. But I don’t think this alone shows a clear intention to sell the account.*

*The account had previously been defaulted and this dropped off around 2012. Following this I’ve not seen anything to persuade me BOS attempted to proactively review or manage the account with Mr S, such as putting in place a repayment plan – and there is no clear rationale for the sale of the debt.*

*The information I do have shows Mr S was making nominal payments to BOS, which were accepted, and had been for some time. He was then told during calls to BOS, on more than one occasion, the account had been closed, and the debt written off. So there was nothing further to pay. There was no indication given to Mr S during these calls that the account had been sold. BOS have pointed out they sent the notice of assignment letter to Mr S before these calls – but Mr S said he hadn’t received any letters. And the fact he kept calling BOS back for clarification around the loan supports this. Believing, nothing else was owed Mr S took out a significant financial commitment, only to discover later that the account hadn’t been written off with no further obligation, but it had been sold and he still had to repay the money.*

*So I do think BOS have done something wrong and need to put things right.”*

## **Responses to my provisional decision**

Mr S responded to my provisional findings but didn’t have any new points for me to consider.

BOS didn’t agree with my provisional findings. They reiterated their point that they wrote to Mr S in October 2018 to inform him they’d sold the debt.

They also said they took the decision to sell the debt as they’d been receiving nominal payments for some time.

## **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 considered BOS response, but it doesn’t change my decision – or my reasoning. BOS said they sold the debt because they’d been receiving nominal payments for some time. But as I said in my provisional findings, I’m not persuaded by what they have been able to provide that they always intended to sell this account. BOS hadn’t attempted to proactively

review or manage the account with Mr S, such as putting in place a repayment plan – and as such, I don't think there was a clear rationale for the sale of the debt.

BOS also commented on a section of the background to this complaint where I have referred to Mr S' comment that his credit file had been marked as 'settled' around November 2018 – which is what prompted him to contact BOS.

This is Mr S' recollection of the events at the time and he has provided a screen shot of his credit report. Although it doesn't specifically name BOS in the entry, the opening date matches the opening of the account and was last updated in October 2018 – so I do think it more likely than not relates to this account.

It also shows the account has a current balance of £0. So I'm persuaded by what Mr S said about the account appearing to be settled to him – hence why he called BOS for clarification. As mentioned in my provisional decision, BOS told him on more than one occasion the account was closed, and the debt written off.

So, as I've said above, my final decision and reasoning is unchanged from my provisional findings.

### **Putting things right**

Mr S needs to be put in a position where he no longer has any debt, outstanding fees or charges relating to the account. Examples of this would be BOS bringing back the account and writing off the debt, or BOS paying the debt off directly to the third party.

### **My final decision**

My final decision is that I uphold Mr S' complaint.

To put things right BOS needs to put Mr S in a position where he no longer has any debt, outstanding fees or charges relating to this account.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 March 2021.

Michael Baronti  
**Ombudsman**