

The complaint

Mr S complained that Bank of Scotland Plc (trading as Halifax) defaulted, closed and transferred his credit card account to a third party claiming that he'd not contacted them. He disagreed as he believed that a payment plan had been agreed.

What happened

Mr S held a credit card account with Halifax for a number of years.

He called Halifax on 5 August 2020 to discuss his account. He'd received a letter stating that his account was in arrears and would be defaulted. He told them he wasn't aware of this. Halifax said they'd written to Mr S on several occasions, but he hadn't replied to them.

Mr S told Halifax he'd had serious health problems. He said this resulted in losing his job in August 2019 followed by time in hospital in March 2020. He said he hadn't received any letters from them. He was unhappy as he'd previously complained he hadn't had any contact from them and felt as though he was being ignored.

Mr S offered to make payments of £10 per week towards his credit card debt. But to agree this, Halifax wanted to discuss his situation in more detail. Mr S didn't want to and asked them to confirm the agreement in writing. Halifax said that they couldn't do that. So, they gave Mr S 30 days "*breathing space*" so he could call them back to discuss his situation further.

Mr S spoke to Halifax again on 3 September 2020. He confirmed his offer to pay £10 per week but still wasn't willing to discuss his financial situation further. Mr S believed Halifax had accepted his offer and he didn't need to do anything more.

Halifax issued a default notice to Mr S dated 18 September 2020 and in October 2020, they closed his account and transferred the remaining debt to a third party.

Mr S wasn't happy with Halifax's actions here. So, he complained to them. He said they hadn't given him time to recover from his health problems. He felt Halifax hadn't been supportive and was unhappy they'd transferred his debt to a third party. He thought they'd agreed to his payment offer and said they shouldn't have transferred his debt. He wanted Halifax to admit they were at fault and take his account "*back in house*". He also said they'd repeatedly sent him photocopied letters with the date changed.

Halifax responded to Mr S's complaint in a letter dated 7 December 2020. They didn't agree that they'd done anything wrong. They told Mr S that although he'd offered regular payments of £10, they'd need to complete a financial review before agreeing to a payment plan. They said Mr S had refused to do this.

Halifax said all letters had been sent to Mr S's correct address and they'd told him that if a repayment plan couldn't be agreed, his account would be closed and passed to their recoveries department.

Mr S wasn't happy with Halifax's response. So, he decided to refer his complaint to this service. One of our investigators considered Mr S's complaint based upon information provided by him and Halifax. She didn't think that Halifax had acted unreasonably. So, she wouldn't be asking them to do any more here.

Mr S didn't agree with our investigator's findings. So, he asked for his complaint to be referred to an Ombudsman 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.

Financial difficulties

From the information I've been provided, it appears that Mr S had been experiencing difficulties in managing his Halifax credit card account for some time.

Halifax's records show that a number of letters had been sent to him. Letters were sent in 2016 and 2017 suggesting that Mr S was consistently only paying the minimum payment due on his account. Because of this, Mr S's debt with them wasn't reducing and meant that he was continually incurring interest costs.

Further letters were sent by Halifax to Mr S in 2018 and 2019. During this period, there were occasions where Mr S either missed or was late with payments. Halifax also wrote to Mr S in 2018 to explain he was paying more in interest and charges than off the balance he owed. This is known as "Persistent Debt".

The Persistent Debt rules were introduced by the Financial Conduct Authority (FCA) with the aim of helping consumers in persistent credit card debt with repaying their debt. Halifax were obliged to contact customers impacted to discuss repayment plans. Where customers didn't respond, Halifax had the ability to suspend their credit card. Halifax were complying with these rules here.

But I can't see that Mr S contacted Halifax to discuss his situation, so they continued to write, reducing his card limit where appropriate, to limit his debt and the associated interest costs. Their letters also suggested where Mr S could get free and impartial advice to help him with his debt. It appears that Halifax were trying highlight potential problems and were offering to help Mr S in a responsible way.

Letters sent by Halifax

Halifax's records show that all their letters were sent to the same address Mr S provided to this service. So, while Mr S says he didn't receive them, from the information and records that I've seen, I think it's more likely, than not, that these letters were sent and were correctly addressed. I understand Mr S's frustration, but I can't reasonably hold Halifax responsible if they weren't delivered. Once posted, they wouldn't have had control over this. I also think it would be extremely unlikely that Halifax would maintain a historical record of letters that they hadn't, in fact, sent. I can't see that this would serve any benefit to them.

Mr S said he wasn't aware of his arrears. Whether he received letters or not, a consumer does have a personal responsibility to regularly check their account and ensure payments are up to date. This could've been checked online, over the phone or at a branch. This was important if, as Mr S suggests, he wasn't receiving any letters or statements.

Mr S also said that letters had been repeatedly photocopied and re-dated before being sent to him. He hasn't been specific about which letters he refers to here. Accepting that many were in a standard format, I'd like to reassure Mr S that I can find no evidence that this was the case. Each letter sent contained information that was both current and relevant at the time. I'm also aware that he'd previously said that he hadn't received letters from Halifax although clearly his point suggests some were received.

Impact of health difficulties

Mr S's health problems resulted in him losing his job in August 2019. I can appreciate how this would be a very worrying and challenging time for him. But unfortunately, I can't see that anyone told Halifax about this at the time. So, they wouldn't have cause to act differently in these circumstances.

By March 2020, it appears that Mr S began to miss his card repayments altogether. This coincides with when Mr S was in hospital and his recovery after. I can't see that Halifax were told about this either, so they wouldn't have been aware of Mr S's situation and so wouldn't have been able to respond appropriately.

Payment Plan

Halifax continued to write to Mr S on a regular basis. This included when more payments were missed resulting in further arrears. Mr S's direct debit for his card repayments was then returned unpaid and cancelled in May 2020. It appears that Mr S did contact Halifax about his account when he received their letter of 29 July 2020. This letter told him about his arrears and suggested where he could get advice. It also explained what could happen if he didn't pay the arrears or contact them.

I've listened to a recording of Mr S's call to Halifax on 5 August 2020. Mr S explained his health problems and Halifax appeared sympathetic to his situation. He told Halifax he wasn't aware of the arrears and that he hadn't received any letters from Halifax about them.

Mr S told this service he believed a payment plan had been verbally agreed with Halifax. During the call on 5 August 2020, Mr S did offer to make weekly payments of £10. But I didn't hear Halifax agree to accept this as a formal payment plan. They told Mr S that they'd need to discuss his financial situation in more detail before agreeing a plan. Unfortunately, Mr S didn't want to do that. He told them, *"You don't need to know anything else about me. I've had an operation. I'm not working. I can afford £10 per week."*

Halifax have an obligation to check that any payment plan is affordable for Mr S without causing further financial hardship. That's what Halifax were trying to do here. But Mr S was unwilling to discuss his situation further. Halifax did give him 30 days *"breathing space"* to return to them. I believe this was the right thing to do at the time.

Mr S rang Halifax again on 3 September 2020. Again, he offered to pay £10 per week. But didn't want to discuss his finances in any more detail. This meant that Halifax couldn't meet their obligation to ensure any payment plan was affordable.

In the absence of a payment plan agreement, Halifax then wrote to Mr S with a default notice. They told him if the arrears weren't repaid or a payment plan agreed, his account would be closed. I can't see they had any other option here. Mr S wasn't willing to discuss his financial situation in more detail with them.

Default

The terms and conditions for Halifax's credit card state, *"You must make at least the minimum payment each month by the payment due date shown on your monthly statement if a balance is payable to us"*. They also say

"We can make changes (except changes to default charges), if we think there is an increased likelihood you will not be able to pay us what you owe on time. This may be because of things that are personal to you such as if...you have broken this agreement, for example you have missed payments, gone over your credit limit several times or a payment you make to us is not honoured..."

A default is when a credit card agreement has been broken. This can happen when either payments haven't been made or the wrong amount has been paid. In Mr S's case, he'd

missed payments which is a default event. Where Halifax offer to provide support by discussing a payment plan, they can stop applying charges and interest. This wouldn't stop the default, but it would provide some breathing space for Mr S.

The Information Commissioner's Office (ICO) says, when a consumer is at least three months behind with their payments then a default must be registered. And it would expect the default to be registered by the time the consumer is six months behind. Mr S's minimum payments stopped from March 2020 onwards. So, Halifax were obliged to record a default of the credit card agreement when they did.

Conclusions

In Mr S's response to our investigator's view, he suggested that the information provided to this service by Halifax wasn't accurate. I would like to reassure him that I've checked the records provided by Halifax thoroughly and am comfortable with their accuracy.

I do appreciate that Mr S's situation must've been very difficult for him. I also acknowledge that he feels that Halifax were unsupportive of his circumstances. But before his call to them in August 2020, they wouldn't have been aware of this and Mr S wasn't willing to provide the financial information they needed to help him.

Having considered Mr S's conversations with Halifax and the letters they sent to him, I think Halifax tried their best to help and agree a way forward. But I also think they'd no option but to issue a default notice in the circumstances here. In doing so, this led to Mr S's account being closed.

Transferring a defaulted account to a third party is common practice in this situation. So, while I understand that Mr S will be disappointed, I can't reasonably say that Halifax have done anything wrong. So, I'm afraid I won't be asking them to do anything more here.

Our investigator previously provided Mr S with details of various charitable organisations who are able to offer advice and support in these circumstances. I think this would be of benefit to Mr S here and I would urge him to consider approaching one of them.

My final decision

For the reasons set out above, I don't uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 14 September 2021.

Dave Morgan
Ombudsman