

## **The complaint**

Mr E complains that he was unaware Bank of Scotland plc defaulted his credit card account.

## **What happened**

Mr E had a credit card with Bank of Scotland plc, trading as Halifax.

In 2019 Mr E contacted Halifax to make a manual payment from a debit card with another bank but he wasn't able to do so. So, Mr E complained. Halifax responded and explained the payment had been declined because the registered address for the debit card didn't match the registered address for his Halifax credit card. Mr E had moved home but hadn't updated the address on his credit card account, so Halifax advised him to do so.

In 2021 Mr E was contacted by a debt collection company, M, who said that his credit card debt had been purchased from Halifax. Mr E said he was unaware he had outstanding debt and thought the account had been closed several years earlier, so he contacted Halifax to complain.

Mr E was told that the last payment Halifax received from Mr E towards his debt was via direct debit in June 2020, at which point he owed nearly £500. Halifax said it had written to him on a number of occasions in the months that followed. When it didn't hear back, it had defaulted the account in January 2021. It later sold this debt.

Mr E told Halifax that he'd moved address and so hadn't received any of the letters. But Halifax noted that when Mr E had complained about the declined payment in 2019, he was told he needed to update his address, but he hadn't done so.

Mr E told Halifax that he'd visited a branch to try and change his address and was told Halifax couldn't locate his account, so he'd assumed it was closed. Mr E said he also tried to speak to Halifax over the phone, but it couldn't find his account. Halifax said there was no record of Mr E attempting to update his address either in branch or over the phone. So, it didn't uphold his complaint.

Mr E remained unhappy and asked our service to look into his concerns about the default. He explained he hadn't received any paperwork for years and the account couldn't be found when he contacted Halifax. So, he cancelled his direct debit in 2020 as he assumed the balance was paid off.

Our investigator didn't uphold Mr E's complaint as they thought Halifax had done what it needed to in order to notify him of the missed payments. On balance, they felt there were a number of ways Mr E could have updated his address and they highlighted that it was his responsibility to do so.

Mr E didn't agree and stressed that the default was too harsh and that removing it would have no impact on Halifax. He raised a number of points about the address change, including:

- Halifax should have done more to try to contact him about the debt before

defaulting the account. He said he didn't receive a text, email or letter from Halifax.

- Mr E had lost his card whilst on holiday at some point and was never sent a new card. As such he didn't have his card number to help identify the account whilst speaking with Halifax about the address change several years earlier.
- Mr E wasn't able to access his credit card account online. He noted he also had a mortgage with Halifax and couldn't see the credit card account online.
- The fact there was no record of his branch visit didn't prove anything because the account couldn't be found, so there was no way to record his visit.
- Halifax had the opportunity to change his address when he complained about the payment difficulties in 2019 and it didn't do so. At this point it knew the address it held was incorrect, so in these circumstances it wasn't fair for it to have only sent him letters about the default. In particular, he highlighted that when he raised a complaint in 2021 it was able to write to the new address he'd given them over the phone, so he didn't understand why it wasn't able to do this in 2019.

So, the complaint was passed to me to consider.

After reviewing the evidence, I intended to reach a slightly different outcome than the investigator. So, I issued a provisional decision so that both Halifax and Mr E could have the opportunity to comment before a final decision was made. In brief, I said that I thought the registration of the default was fair, but that it ought to have been registered earlier. And I told both parties I was intending to direct Halifax to show the default as having been registered in September 2020.

Mr E didn't make any further comment following my provisional decision. Halifax confirmed it would be willing to amend the date of the default.

I am now able to reach a final decision on this complaint.

### **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'd like to start by clarifying that I have only been asked to consider Mr E's complaint about the default. So, I won't be considering the merits of his earlier complaint from 2019 about the declined payment.

Although a number of issues have been raised, this decision only addresses those issues I consider to be materially relevant to this complaint. However, I've given careful consideration to all of the submissions made before arriving at my decision.

Halifax applied the default in January 2021 after it had received no payments from Mr E since June 2020. Halifax has shown me evidence that it sent several letters about the arrears to the address it had registered for Mr E, in particular:

- On 15 July 2020 it sent an arrears letter.
- On 15 August 2020 it sent an arrears letter.
- On 11 September 2020 it sent a default notice giving Mr E until 29 September 2020 to get in contact or pay the arrears.
- On 16 October 2020 it sent an arrears letter.
- On 12 November 2020 it sent a letter asking for payment of the credit card balance.

But Halifax never heard from Mr E nor did it receive any payments.

Having reviewed the correspondence Halifax sent, albeit to Mr E's old address, I'm satisfied these complied with the relevant requirements including the appropriate notice of arrears and the default notice. Its letters also attempted to signpost Mr E to support and give him sufficient opportunity to try to re-pay the debt before the default was registered.

But as the letters were addressed to his old address, Mr E says he didn't receive any of Halifax's communications and so wasn't aware of the arrears. So, I've thought carefully about what both parties told us about changing Mr E's address on the account.

It's clear that it was brought to both Halifax's and Mr E's attention back in 2019 that the address on Mr E's credit card account wasn't up to date. I've seen Halifax system notes from August 2019 that support the fact it told Mr E he needed to change the address on his account and that the complaints department hadn't done this. The note in question suggests Mr E was signposted to telephone banking.

I asked Halifax whether it could have simply updated Mr E's address at that time given it was told this was wrong. It explained that its complaints department staff can't update account details which is why Mr E was told he needed to do this separately. It clarified that as a department it held its own records of customers who had complained and it had updated his address on its own records – which is why it was later able to write to Mr E about this complaint using the correct address. It told us it couldn't update account details for security reasons as additional identification measures applied to such changes, and I think this is a reasonable requirement to safeguard its customers' accounts.

I'm also satisfied Halifax told Mr E he had to take further action to update his address. But Mr E said he couldn't do this because Halifax was unable to find his account. He said he went into branch but wasn't able to provide the 16 digit card number for his account as he'd lost the card several years earlier and Halifax had never sent him a replacement. He also said Halifax had been unable to find the account when he called.

Halifax said it had no record of Mr E reporting the card loss or requesting a replacement card. It also had no record of Mr E's calls or any branch visit. I do agree with Mr E that if Halifax couldn't locate his account, then there may not be a record of his attempts to change his address. That being said, Halifax has told us that Mr E could have provided his name and registered address and staff should have been able to locate the account even without his card number. And this, I think seems reasonable. So, on balance I'm not persuaded that a lack of the card number prevented Mr E's account from being located.

From the evidence I've seen, I'm not persuaded that there were any mistakes made by

Halifax that caused or contributed to the address on the account not being updated. I think Halifax made it clear to Mr E that he needed to update his address and he didn't do this.

And I'm satisfied that it was ultimately Mr E's responsibility to ensure his address was up to date. Keeping this in mind, I think it was reasonable for Halifax to write to Mr E at the address registered on the account to notify him of the arrears and default.

When considering this complaint, I've thought about the fact that Halifax could have identified Mr E's address was wrong as its complaint department had this information. But even if it had realised this, it wouldn't have been able to send these letters to the new address Mr E had provided without verifying it. So, I don't think this would have changed anything.

I appreciate Mr E thinks Halifax ought to have text or emailed, or perhaps even made efforts to trace his current address. I would only expect it to do this had it not taken sufficient steps when it was notified the address was incorrect. Given that at that time the staff involved were not in a position to amend the address, that they explained this to Mr E and advised him both that he needed to do this and how – I think Halifax did enough. I say this noting there is no evidence any of the correspondence Halifax sent was returned in the years that followed.

Overall, whilst it's unfortunate Mr E didn't receive these letters, I'm not persuaded Halifax did anything wrong.

I've seen no evidence that Halifax told Mr E, prior to him cancelling his direct debit, that his outstanding balance had been fully repaid. In fact, he still had an outstanding balance of nearly £500 on his account at that time and monthly payments were still being deducted up until the direct debit was cancelled. So, I think Mr E ought reasonably to have known his account would be going into arrears as he wasn't making any further payments to reduce his outstanding balance.

When applying for the credit card Mr E had entered into an agreement with Halifax to repay the debt owed. So, he had some responsibility to ensure he did so. For all of these reasons, I think it was fair for Halifax to register a default by the end of September 2020 given by then it had received no payments in over three months and had no communication from Mr E about this.

That being said, I can see that Halifax didn't register this until January 2021. And I'm not aware of any reason for this delay. Halifax didn't apply any further charges or interest to Mr E's account in this time. So, I don't think this delay led to any increase in Mr E's debt. But defaults stay on credit files for six years and so an earlier registration of the default would mean that the default drops off of Mr E's credit file slightly sooner – i.e. in September 2026 rather than January 2027. Given this, I think Halifax's delay could cause Mr E detriment in the future. And so I think Halifax should now amend its records and its reporting to the credit reference agencies to show the default as having been in place since 30 September 2020 in order to put this right.

### **My final decision**

For the reasons outlined above, my final decision is that the application of the default was fair. But I think Bank of Scotland plc made a mistake in relation to the timing of the default registration and need to put this right.

I direct Bank of Scotland plc to amend its records and its reporting to the credit reference agencies to show the default as having been in place since 30 September

2020.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 11 March 2022.

Jade Cunningham  
**Ombudsman**