DRN-3379866

The complaint

Mr T complains that Bank of Scotland plc trading as Halifax (Halifax) defaulted his loan.

What happened

Mr T took a personal loan of £12,000 from Halifax in December 2018. Monthly repayments were £218. Payments were made up to March 2020 – when Mr T's income was affected by the Covid 19 pandemic. He was on furlough. Halifax agreed to a one-month payment holiday. He called Halifax on 10 August 2020 – as he had been made redundant and was out of work. Halifax agreed to a three-month payment break – with zero interest. No payments were required, or made for September 2020, October 2020, and November 2020. The arrangement came to an end on 10 November 2020 and Halifax wrote to Mr T to say so. On 1 December 2020, Halifax sent Mr T a Notice of Default with the arrears at £654 – and asked that the payments were brought up to date by 19 December 2020. No payment was made in December 2020.

On 9 January 2021, Mr T called Halifax and a payment plan for eight months was agreed – with payments of £354.25, starting on 5 February 2021. On 4 February 2021, Mr T paid in £354.0 (not £354.25). On 11 February 2021, Halifax wrote to Mr T and said the plan hadn't worked out, and stated the arrears were £954. They asked to speak to Mr T. On 19 February 2021, Mr T called Halifax and the bank said the payments had to be £491 per month, and the arrangement was changed to three months. Mr T complained and Halifax agreed to a hold on payments until the end of March 2021 – while the complaint was being investigated. On 1 April 2021, the loan was defaulted and sold – the balance was £8,094.53.

Mr T complained to Halifax in February 2021. He said that he had only been 25p short of the payment – and this was a genuine mistake – he paid the amount he'd written down in his notes. He said he hadn't received a letter from Halifax setting out the eight-month arrangement and therefore hadn't had the agreement, and amount to be paid, in writing. He said he had been assured that no default would be made while the loan was on hold – in February 2021 and March 2021. He said the default and markers on his credit file were therefore unfair and they were affecting his ability to get credit.

On 16 March 2021, Halifax said the default was applied fairly. The payment plan agreed on 8 January 2021 had been broken because Mr T hadn't paid in £354.25 as agreed. At the time of their final response, Halifax offered to discuss a repayment programme.
Mr T brought his complaint to us. Our investigator said Halifax acted reasonably. He said Halifax had agreed to a three-month payment break in August 2020 – and advised Mr T that the missed payments needed to be made up. Mr T then missed a fourth payment in December 2020 and Halifax's letter dated 1 December 2020 and the default notice dated 19 December 2020 were clear. Halifax had agreed to a further payment programme in January 2021 – but Mr T hadn't made the required payment of £354.25, and so the default was fair. He could see that the letters were addressed to Mr T's home address and so if Mr T hadn't got them, Halifax couldn't be held responsible for that.

Mr T asked that an ombudsman look at his complaint.

<u>I reached a provisional decision where I said:</u>

I consider there are three aspects to Mr T's complaint here – which I will look at:

- Was the payment break in August 2020 a reasonable thing for Halifax to do – should Mr T have been given a payment holiday under the FCA's pandemic support scheme.

- What happened in January 2021 and February 2021 – Halifax's agreement to an eight-month payment plan; and Mr T's payment of £354 on 4 February 2021.

- What happened in February 2021 and March 2021 – when Halifax agreed to a payment hold while Mr T's complaint was being investigated.

<u>Payment break – August 2020:</u> to be clear, in April 2020, The Financial Conduct Authority (FCA) announced guidance to lenders in response to the effects on customers of the COVID-19 pandemic. All lenders, including Halifax, had to put in place 'payment holidays' on many credit agreements, including personal loans – to help customers who were affected. Customers could ask for a total of two payment holidays each of three months – whereby payments could be suspended. Missed payments would not be reported to credit reference agencies, although interest would still be debited to the accounts. This support was provided by firms up to the end of October 2020.

The intention was to provide short term support – usually in cases where customers would be returning to work within a short period of time. And so – where a customer's situation was that they were in longer term difficulty, then payment holidays under this scheme weren't normally agreed. I considered whether this form of help should've been given to Mr T – but in his circumstances, I don't think Halifax should have done so.

I say this because Mr T had been made redundant in July 2020. He had received some redundancy money; and he had been on furlough for four months before that – so he had paid the household bills and loan payments for a period. He called Halifax on 10 August 2020 – and I listened to the call, and at the time he wasn't certain he could get another job. And so – because of that, I think Halifax were correct in offering Mr T a three-month payment break. That was different to the FCA's payment holiday scheme – as it charged zero interest, and it was advised to the credit reference agencies. This was set out in Halifax's letter dated 11 August 2020 – which I'm satisfied set everything out clearly. The letter also said the credit reference agencies would be advised there was a plan in place. It's also fair to note that Halifax wrote to Mr T on 10 November 2020 to advise him that the plan had ended and that payments should be brought up to date. It's unfortunate that Mr T then didn't make the payment due in December 2020 – which led to a Notice of Default being sent on 1 December 2020 – with the arrears then at £654. The letter said Mr T should bring payments up to date by 19 December 2020 – which he didn't do. Mr T says he didn't receive the letters from Halifax – but we asked to see the dispatch logs and they show the letters were sent, so we can't hold Halifax responsible if they didn't arrive. As far as our service is concerned, we must assume the letters were delivered.

And so – up to this point, Halifax acted reasonably. But it's what happened next which is the crux of Mr T's complaint.

<u>January 2021- February 2021</u>: Payment plan for £354.25 per month: Mr T called Halifax on 8 January 2021. I listened to the call. Mr T told Halifax he was back in employment and wanted to clear the arrears – which he accepted were four months behind. Halifax's call handler (in the financial assistance unit) worked out Mr T's income and expenditure and it was agreed he could afford to pay £354.25 per month for eight months, with the first

payment due by 5 February 2021. On the call, Mr T was advised that the credit reference agencies would be advised a plan was in place. At the end of the call, Halifax checked Mr T's understanding of the plan - and Mr T said he needed to pay "£354" to the loan in February 2021. The call handler didn't pick up that Mr T had said £354 and not £354.25 – but in all fairness, I can accept that this wouldn't have been a reasonable thing to expect her to do.

Halifax wrote to Mr T on 8 January 2021 – and this set out the agreement. It said "We're setting your monthly payment to £354.25 from 5 February 2021 to 5 September 2021….If you keep to these payments, you will be up to date with your loan by the end of this plan… Being behind with your payments can affect your credit score and make it harder and more costly for you to borrow money….It may also stay on your credit file for 6 years, but the impact on your credit score will reduce if you keep up with your payments." Therefore, the letter set out the plan's terms. Mr T says he didn't get the letter – but again, we have seen Halifax's dispatch log and a letter was sent.

Halifax wrote to Mr T on 11 February 2021 – to say the plan had been broken and the arrears were then £954. Mr T then called Halifax on 19 February 2021 – by which time he had logged his complaint. I listened to the three calls that took place on that day. Mr T said he was worried he was getting letters about legal action – he said he had complied with the plan and had paid in what was needed - £354 – on 4 February 2021. He accepted that was part of the deal for the eight month plan. So – on the call he was surprised to learn that he needed to pay 25p more. He referred to the notes he had written during the call on 8 January 2021, which said the payment should've been £354.

It seems to me that it would've been reasonable for Halifax's call handler to make a judgment that for the small shortfall of 25p – that this was a genuine mistake, and marked the loan as paid to date within the agreed plan – but she didn't. I don't think that was a fair and reasonable thing to do in the circumstances of Mr T's situation. And what happened next – was a consequence of that.

<u>*February 2021 – March 2021:*</u> In the call on 19 February 2021, it was agreed that Mr T's income and expenditure hadn't changed. But the call handler then said the payments had to go up to £491 per month; and the plan was to be shortened to three months. A reason wasn't given to Mr T – but I presume that was because the payment of £354.25 hadn't been made in full. Mr T didn't accept that – he said Halifax had agreed to an eight-month plan; and continued with his complaint. The call handler put in place a 30 day hold on the account – and said that arrears would continue to build up but (the plan) "will stop a default on credit file for now".

Mr T called again on 27 February 2021 to progress his complaint. The call handler agreed to a 30 day hold while the complaint was being investigated. She said, "collections activity will stop" (for that period). She also said, "there's no need to respond to letters asking for payments".

I didn't see any evidence that the terms of the holds were put in writing to Mr T.

And so – I don't think it was reasonable for Halifax to cancel the agreed eight-month plan and shorten it to three months, with significantly higher payments – without explanation. And – they told Mr T that no default would take place during the hold period, and he didn't need to make any payments. I don't think it was then reasonable for Mr T's loan to be defaulted on 1 April 2021 – one day after the hold expired.

And so, in the circumstances of Mr T's complaint, I don't think Halifax acted reasonably here. It would've been reasonable for them to accept that a genuine error had been made when

Mr T made a payment that was 25p short. And if they had, then it's probable that the eight-month payment plan would've gone forward and adhered to by Mr T. And therefore, the default that was applied in April 2021 should be removed. It is fair that Mr T's credit file should show he was in an arrangement for the months of September 2020 to November 2020, and that there was a missed payment in December 2020 – as this was factually correct. It's also fair that his credit file is marked as in an arrangement from February 2021 for eight months – as that was the duration of the agreed plan, and that was included in the letter sent to Mr T about it.

I don't have up to date information about the current balance of Mr T's loan – but it's fair to ask Halifax to put in place a mutually acceptable payment schedule for the repayment of the outstanding amount. I asked Mr T about his current circumstances, and he confirmed he has been paying £250 to the debt collection agency and could pay up to the previously agreed amount (£354.25) if necessary. Whether Halifax take the debt back onto their books or leave it with the debt collection agency is a matter for them.

Mr T had to call Halifax several times – I listened to six calls, some lasting up to an hour. I can see that because of what happened, he suffered stress and inconvenience - his credit file was affected and he couldn't easily get credit. And so, for that I think its fair to ask Halifax to pay compensation of £200.

Responses to the provisional decision:

Mr T agreed with the findings. He wanted the loan brought back onto Halifax's books as he considered it was a negative to have it with a DCA. He agreed he could afford to pay the contractual repayments to the loan. He wants the compensation to be paid into his current account.

Halifax broadly agreed to repurchase Mr T's debt from the DCA and re-establish the loan payments; and pay the compensation.

But – they also argued that:

- It would be fair to calculate and add interest owed from October 2021 onwards. This would reflect that the payment plan that was agreed had run its course and the loan then returned to normal conditions. This would mean that the amount of the loan would increase from its new start date.
- If any payments hadn't been made since October 2021, the missed payments would be reported to Mr T's credit file.

I now need to consider these points and make 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 considered Halifax's two points. On the first one, I think this is reasonable – otherwise, Mr T has effectively enjoyed an interest - free loan since October 2021 while his complaint has been considered – which doesn't seem fair to Halifax. So, I agree that Halifax should add interest since that date up to when the loan is re-established. But I would also say that

Halifax must re-establish the loan to run for the remainder of its original term – and not look to reduce it. And as this will result in increased repayments – as the amount of the loan will increase – Halifax must ensure the repayments are viable.

On Halifax's second point, I don't think this is reasonable – as we do not know what would've happened from October 2021 onwards, and so cannot somehow make assumptions about whether Mr T would, or wouldn't have made the repayments from then on – so it is not reasonable for Halifax add anything on Mr T's credit file from October 2021 to the present day.

And therefore – my final decision is in line with the provisional decision, but with the changes detailed above..

My final decision

I uphold this complaint. Bank of Scotland plc trading as Halifax must:

- Remove the default dated April 2021 from Mr T's credit file.

- Pay compensation of £200 for stress and inconvenience. This should be paid to his bank account.

- Buy back the loan from the DCA.

- Agree with Mr T a mutually acceptable payment schedule for the repayment of the outstanding debt. The amount of the loan can be increased by adding interest at the loan's contractual rate from October 2021 to when the loan is re-established. The term of the loan should be the original term, less the repayments made up to March 2020.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 30 November 2022.

Martin Lord
Ombudsman