

The complaint

Mr H complains Bank of Scotland plc (BoS) failed to respond to his initial request for a payment deferral, later declined his subsequent request and then placed his loan in default.

What happened

Mr H took a loan through BoS in June 2019. He maintained his monthly repayments without any difficulty until February 2020. Towards the end of March 2020, he called BoS. He told them he wanted to apply for a payment deferral as his income had been impacted by the global pandemic. Mr H also told BoS he would cancel his loan repayment direct debit as he knew he couldn't afford the repayment due at the end of March 2020.

Mr H said BoS told him this wasn't a problem, but his call would need to be transferred to a different department. Unfortunately, the call transfer was unsuccessful. Mr H asked if he could make an online application. BoS told him this wasn't currently an option but would be available soon. They suggested he check their website regularly.

When the direct debit claim for Mr H's loan repayment was rejected at the end of March 2020, BoS transferred his loan to their collections department. BoS wrote to Mr H on 10 April 2020 about the arrears. Mr H saw that their website now allowed online payment deferral applications, so he applied. But BoS declined his request. They said Mr H wasn't eligible because his loan was already in arrears.

BoS wrote to Mr H again on 22 April, and 12 May 2020. They then sent a default notice to him on 23 May. So, Mr H contacted BoS on 2 June 2020 to request a payment deferral again. But BoS again said he wasn't eligible because of the existing arrears. So, Mr H complained to BoS.

BoS responded to Mr H's complaint in September 2020. They didn't agree they'd done anything wrong. They also told Mr H that his loan had defaulted in August 2020. I understand BoS have since sold the debt to a third party.

Mr H wasn't happy with BoS's response to his complaint. He thought he'd tried to do the right thing by requesting the payment deferral. He also confirmed he'd made successful applications to other lenders. So, Mr H referred his complaint to this service. He told us he'd like BoS to retrospectively apply the payment deferral and remove all adverse information reported on his credit file.

One of our adjudicators looked at Mr H's complaint. The adjudicator issued their view in September 2021. They didn't think BoS had treated Mr H fairly. Our adjudicator thought BoS should:

- buy back the debt from the debt collection agency; and
- apply the payment deferral to Mr H's loan, back dating it to the date it was originally requested; and
- remove any adverse information reported to the credit reference agencies; and
- pay compensation to Mr H of £50.

In response to our adjudicator's recommendations, BoS asked that Mr H provide details of his current income and expenditure. They said this was required in order to assess whether

Mr H would still be able to afford to repay the loan in the event they buy it back. But Mr H hasn't yet provided the information or responded formally to our adjudicator's view.

BoS also haven't formally responded to our adjudicator's view. They've confirmed they'd like to help Mr H but continue to ask for more time to consider what support they can provide.

Given the time elapsed since our adjudicator's view and as no formal agreement has been reached, Mr H's complaint has been passed to me to review.

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.

The Financial Conduct Authority (FCA) issued guidance to lenders on 2 April 2020 which explained what it expected from businesses during the exceptional circumstances arising out of the global pandemic. It provided guidance asking businesses to consider payment deferrals of up to three months under regulated credit agreements. Advance notice of these special measures had been provided to lenders albeit the full details weren't available at the time of Mr H's original call. But BoS should've been aware an announcement was expected.

The FCA said their guidance applied where consumers were already experiencing or reasonably expect to experience temporary payment difficulties as a result of the pandemic. The FCA also said that *"firms should ensure that there is no negative impact on the consumer's credit file because of the payment deferral"*. I'm persuaded that Mr H's financial difficulties were a direct consequence of the impact of the pandemic. His payment history prior to that showed no sign of difficulties.

BoS's file notes show that Mr H called them before his March loan repayment was due to request a payment holiday. So, BoS were on notice of what Mr H wanted and his circumstances. He'd also told them he was cancelling his direct debit because he couldn't afford the repayments. This was due to the financial impact of the global pandemic.

It appears BoS were unsuccessful transferring Mr H's call to the appropriate department. But despite having been informed of his situation, BoS issued arrears notices when his March repayment was rejected. So, when Mr H attempted to apply online for a payment deferral in April, BoS declined this as his loan was in arrears.

I don't think BoS treated Mr H fairly here. He'd already told them about his situation and BoS should've acted appropriately. But they continued to write to Mr H about the arrears on his loan. When Mr H eventually spoke to BoS again in June 2020, they again declined his request for a payment deferral due to the arrears. However, I believe that had BoS acted proactively upon Mr H's original enquiry, the arrears wouldn't have occurred. Details of his original call were in their file notes.

Having considered all the circumstances, I believe BoS should've agreed to retrospectively apply the payment holiday to Mr H's loan and ensure no adverse information was reported.

Further guidance issued by the FCA on 1 July 2020 extended these measures, and where consumers were still struggling due to the global pandemic, businesses were advised to freeze or reduce their payments for a further three months. Had BoS agreed the original payment deferral, and Mr H's financial difficulties continued, he would've had the opportunity to apply for a further three-month deferral.

Ultimately, despite Mr H's requests and subsequent complaint, I can't see that BoS provided much in terms of forbearance and support in his case. And the debt was ultimately defaulted and sold to a debt collection agency.

I agree that BoS could've done things better in Mr H's case. And I do believe they need to act to put things right. So, I will address that in my decision. But before accepting my decision, Mr H needs to be aware that in the event he's unable to maintain his loan

repayments going forward, adverse information may be reported on his credit file again. This information remains in place for six years. So, at the moment, the default BoS registered in August 2020 is expected to be removed from his credit file in August 2026. Should BoS remove this information and he later falls into arrears or defaults, any adverse information reported then will remain in place for six years from that point.

I would also recommend that in the event Mr H accepts my decision, both he and BoS work proactively to agree a realistic repayment plan to ensure his loan is ultimately repaid without further difficulty.

My final decision

For the reasons set out above, I uphold Mr H's complaint.

I require Bank of Scotland plc to:

- buy back Mr H's outstanding debt from the debt collection agency; and
- apply the payment deferral, and a further three-month extension (if required) to Mr H's loan, back dating it to the date it was originally requested; and
- remove any adverse information reported to the credit reference agencies from the point he originally contacted them in March 2020; and
- pay compensation to Mr H of £50.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 21 April 2022.

Dave Morgan
Ombudsman