

The complaint

Mr F complains that Bank of Scotland trading as Halifax declined his payment break request during the pandemic and went on to close his loan and record a default on his credit file.

What happened

The background to this complaint and my initial conclusions were set out in my provisional decision. I said:

Mr F took out a loan with Halifax in January 2019. After January 2020's payment was returned, Mr F spoke with Halifax. The payment was made up at the beginning of February 2020. Mr F has told us he spoke with Halifax in February 2020 as he was aware he would have difficulties maintaining loan payments due to his income being impacted by the pandemic.

Mr F made the payment due in February 2020 but the March 2020 payment was returned to his bank. On 20 April 2020 Mr F spoke with Halifax and applied for a payment break. Mr F's application was declined. Halifax says Mr F wasn't eligible for the support as his loan was already in arrears when he applied.

Mr F has explained that throughout this period he tried to speak with Halifax to discuss options for help but experienced very long call waiting times and delays when responding to call back requests.

As payments weren't made, the loan fell into arrears and was ultimately closed by NatWest which went on to record a default on Mr F's credit file.

Mr F complained that Halifax had failed to help him during the pandemic. Halifax didn't uphold Mr F's complaint and said the loan was correctly closed as he wasn't eligible for a payment break. Mr F referred his complaint to this service and it was passed to an investigator. They initially recommended that Halifax rewinds the loan account and remove the default from Mr F's credit file. But after Halifax provided some new information, the investigator changed their view. The investigator asked Halifax to pay Mr F £75 but didn't recommend his loan be reinstated.

Mr F asked to appeal and said he was impacted by the pandemic which caused financial difficulties. Mr F explained he'd repeatedly tried to speak with Halifax without success. The debt has now been sold to a third party business and Mr F says it's harassing him for payments. Mr F also said he has finance with another business which was able to offer a temporary payment break when he needed it. As Mr F asked to appeal, his complaint has been passed to me to make a decision.

What I've provisionally 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 reached a different view to the investigator concerning how to fairly resolve Mr F's complaint. Based on the information I've seen so far, I don't agree Halifax acted fairly when it declined the payment break application in April 2020. So I intend to uphold Mr F's complaint. I'll explain why.

In April 2020 the Financial Conduct Authority issued guidance to lenders. The Payment Deferral Guidance (the guidance) explained lenders could offer support to customers who's ability to make payments was impacted by the pandemic. The guidance allowed lenders to give payment breaks of three months with a later option to extend the break for a further three months. The guidance said the payment break wouldn't be right for all customers including those who were already experiencing financial difficulties that weren't connected with the pandemic. The guidance came into effect around two weeks before Mr F called Halifax.

Halifax's response to the investigator's original view of Mr F's complaint said it couldn't offer support because his loan was already in arrears. Halifax quoted the FCA guidance. But the section quoted by Halifax appears to come from the Tailored Support Guidance. The Payment Deferral Guidance for loans says "a firm should not give a payment deferral under this guidance in relation to a regulated credit agreement... where the customer was in pre-existing financial difficulty unrelated to the coronavirus."

I don't agree the guidance means Halifax couldn't approve a payment break for Mr F solely on the basis he had missed a payment.

I've considered the guidance and what it means for Mr F. I understand Mr F is a taxi driver and accept his income was impacted by the pandemic. I think it's fair to say that whilst Mr F was experiencing financial difficulties, they appear to have come about due to the pandemic. So I think Mr F should reasonably have expected Halifax to have helped him with a payment break. I see no reason why Mr F wouldn't have qualified for help under the guidance – even accepting the arrears on his loan. And I haven't seen anything to suggest Mr F wouldn't have qualified for a full six month payment break, in line with the guidance. I note Mr F has told us Halifax was able to offer payment breaks for other products he has with it, for example.

I need to consider how to fairly resolve this complaint. The loan was closed and sold to a third party. Mr F has told us he wants the adverse information to be removed from his credit file and to start making payments again. In my view, that's fair.

I can see this issue has gone on for a long time and impacted Mr F's credit file. And I'm satisfied Halifax's actions have caused a reasonable level of distress and inconvenience for Mr F since April 2020. So I also intend to award £250 for the distress and inconvenience Halifax's actions caused Mr F.

Based on the inform I intend to uphold Mr F's complaint and direct Halifax to settle as follows:

- Purchase the debt back from its new owners, reducing the balance by any payments Mr F has made since the loan was closed*
- Reinstate the loan account on its systems under the original terms*
- Arrange for all fees and charges applied from April 2020 to date to be refunded*
- Apply the payment break, backdated to April 2020*
- Contact Mr F to make arrangements for either clearing the arrears caused by the payment break, extending the term or increasing the contractual monthly payments to ensure it's repaid by the end of the agreed term*

- *Arrange to remove all arrears and adverse information recorded in relation to Mr F's loan from April 2020 to date*
- *Pay Mr F £250 for the distress and inconvenience caused*

I invited both parties to respond with any additional comments or information they wanted me to consider before I made my final decision. We didn't hear back from Mr F.

Halifax responded and explained systems limitations meant putting the proposed settlement in place difficult and said a new loan agreement, subject to affordability checks, was required.

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 understand Halifax has systems issues that make reinstating the loan challenging. But I have to balance that against the need to ensure Mr F's complaint is resolved fairly. And, for the reasons I gave in my provisional decision, I'm satisfied the decision to close the loan was unfair to Mr F.

Mr F has told us he wants to start making repayments and for the loan to be put back in place. That would essentially put Mr F back into the position he would've been in had no errors been made. In addition, removing any adverse information from Mr F's credit file from April 2020 onwards in relation to the loan will mean he isn't impacted by an unfair decision to close the loan.

As no new information has been provided and I haven't been persuaded to change my view, I still think the fairest approach is to uphold Mr F's complaint and direct Halifax to settle in line with my provisional decision.

My final decision

My provisional decision is that I uphold Mr F's complaint and direct Bank of Scotland plc trading as Halifax to settle as follows:

- Purchase the debt back from its new owners, reducing the balance by any payments Mr F has made since the loan was closed
- Reinstatement of the loan account on its systems under the original terms
- Arrange for all fees and charges applied from April 2020 to date to be refunded
- Apply the payment break, backdated to April 2020
- Contact Mr F to make arrangements for either clearing the arrears caused by the payment break, extending the term or increasing the contractual monthly payments to ensure it's repaid by the end of the agreed term
- Arrange to remove all arrears and adverse information recorded in relation to Mr F's loan from April 2020 to date
- Pay Mr F £250 for the distress and inconvenience caused

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 18 May 2022.

Marco Manente
Ombudsman