

The complaint

Mrs O complains that Bank of Scotland plc trading as Halifax (BoS) sold her loan account and current account to a debt collection agency with incorrect balances. She's also unhappy BoS hasn't sent her statements for these accounts after she requested them.

What happened

Mrs O had a current and loan account with BoS. These accounts were defaulted, and subsequently sold to a debt collection agency in 2013.

In April 2021, Mrs O complained to BoS because she felt they had sold her current and loan accounts to a debt collection agency with incorrect balances. At that time, she asked for copies of her statements for both accounts covering 2000-2013.

BoS investigated Mrs O's concerns and issued their final response that same month. They explained they wouldn't be investigating her complaint about the sale of her accounts because she had complained too late. They also apologised for initially telling Mrs O she'd need to contact the debt collection agency for her statements. They acknowledged Mrs O could have requested her statements via a subject access request and said they'd arrange for that to happen. BoS sent Mrs O a cheque for £50 in recognition of the confusion and delay caused by their mistake.

In November 2021, Mrs O was still unhappy as BoS as their April final response only addressed her concerns about her current account. She was also unhappy BoS hadn't sent the requested statements despite her subject access request.

BoS issued another final response and explained that Mrs O had complained out of time regarding her loan account. They also offered Mrs O £50 for not sending her statements, and they felt this was due to a system error. As Mrs O remained unhappy, she referred her complaint to our Service.

Our Investigator agreed with BoS that Mrs O had complained too late regarding the balances on her account when they were sold to the debt collection agency. Our Investigator explained this was because more than six years had passed since her accounts were sold, and more than three years since Mrs O ought to have become aware there may have been a problem when that happened.

When considering the statements Mrs O had requested, BoS told us they no longer held copies. Our Investigator didn't think this was unreasonable given the time that had passed. She felt the total award of £100 offered by BoS was a fair resolution for giving Mrs O misleading information when she requested her statements.

Mrs O disagreed with our Investigator, so her complaint was passed to me 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.

Having considered everything, I'm not upholding Mrs O's complaint. I'll explain my reasons below.

Balances of the accounts when they were sold to a debt collection agency

Mrs O complains her loan and current accounts were sold to a debt collection agency with incorrect balances.

Our Service doesn't have the power to investigate all complaint referred to us. The Financial Conduct Authority sets the rules that governs the work we do. These rules outline the time limits in which complaints should be raised. The relevant rule is DISP 2.8.2. This says we can only investigate complaints that were raised within six years of the event complained of, and if later, within three years of the consumer becoming aware – or when they ought reasonably to have been aware they had cause for complaint. The exceptions to this rule are if the delay was caused by exceptional circumstances, or the financial business consents to our involvement. BoS doesn't agree to us dealing with this aspect of Mrs O's complaint, so I had to decide if she complained in time.

Mrs O's accounts were sold to a debt collection agency in 2013, so this is when the event complained of took place. Under the six-year part of the rule, Mrs O had until 2019 to raise her complaint. As she didn't complaint until April 2021, Mrs O did so around two years too late.

I next considered the three-year part of the rule. This is when Mrs O became aware or ought reasonably to have become aware that BoS may have sold her accounts with incorrect balances.

Given the time that's passed, there is limited information from the time Mrs O's accounts were sold. However, I've seen evidence that shows the debt collection agency sent Mrs O statements for both accounts in January 2015.

These statements detailed the outstanding balances on both her current and loan account. Therefore, January 2015 is the latest Mrs O ought reasonably to have become aware there may have been a problem. So, under this part of the rule she ought to have raised her complaint by January 2018. However, given this is before the timeframe permitted under the six-year part of the rule, the 2019 deadline still applies. In turn, it means Mrs O still raised her complaint too late.

I've not seen any evidence or information that persuades me exceptional circumstances caused the delay in Mrs O raising her complaint point about her account balances when they were sold. It's for this reason I consider this point is outside of our jurisdiction, so we do not have the power to investigate it.

BoS not sending copies of statements

Mrs O has complained BoS hasn't sent copies of statements from 2000-2013 on both her loan and current account, despite requesting them.

Financial businesses aren't obligated to keep customer records for an indefinite period of time. Mrs O requested statements that had been created over 20 years ago. And given the time that's passed, I don't consider it's unusual or unreasonable BoS no longer holds the information she's requested. It's for this reason I can't agree BoS treated Mrs O unfairly when they were unable to fulfil her request for copies of her current and loan account statements.

Despite the above, I do consider BoS' customer service did fall short when Mrs O requested her statements and subsequently chased them up. BoS has acknowledged they incorrectly told Mrs O to contact the debt collection agency for her statements. They also mistakenly told her they hadn't been sent to her due to a system error.

It is disappointing to see Mrs O was given incorrect information when she made a clear and simple request. However, I have been pleased to see BoS admitted to their mistake and proactively offered Mrs O awards totalling £100 in recognition of the impact this had on her.

Had BoS not already taken steps to resolve these mistakes, I would have asked them to pay an award of a similar amount. Therefore, I'm satisfied their award is fair in the circumstances. As Mrs O has cashed the cheques totalling £100, I won't be asking BoS to do anything further to resolve this complaint.

I appreciate Mrs O will be disappointed with this outcome. But given the above, I'm not upholding her complaint.

My final decision

My final decision is that I do not uphold Mrs O's complaint about Bank of Scotland plc trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 21 December 2022.

Sarrah Turay
Ombudsman