

## **The complaint**

Miss R complains about the way Bank of Scotland plc (“BoS”) treated her in relation to debts she held with it.

## **What happened**

Miss R had loans and an overdraft with BoS. Miss R experienced employment issues and ill health in 2004/2005 which impacted her ability to manage her debts. She complains, broadly, about the way she was treated by BoS at the time, and over the following years. Miss R also has concerns about how some payment protection insurance, critical illness cover and income replacement cover was sold/handled.

I issued a jurisdiction decision where I set out what our service could and couldn’t consider. I summarised this in the following bullet points:

- Miss R is dissatisfied with BoS in relation to various products. Only the loans and overdraft will be considered as part of this complaint;
- Matters relating to the loans and overdraft pre-2011 have been brought too late, and so our service doesn’t have the power to consider them; and
- Our service does have the power to consider matters relating to the 2015/2016 account defaults, related balances and credit file implications, along with BoS’ debt recovery activity during this period.

Our investigator thought about what our service could consider and didn’t recommend BoS do anything more to resolve this complaint. He said:

“Miss R’s loans and current account were closed to further use in or before 2008. However, they weren’t defaulted as they should have been. This meant over the following years the balances increased as interest continued to be applied, and Miss R’s credit file was likely impacted for longer than it should have been. BoS let Miss R down here.

As I understand it, when BoS became aware of its oversight in 2015/2016 it, in effect, applied and backdated defaults to the accounts, meaning they stopped being reported to Miss R’s credit file. I’m satisfied this placed Miss R’s credit file in the position it would have been in, had it not been for BoS’ oversight.

BoS also wrote off the remaining balances. This amounted, based on 2008 figures, to in excess of £20,000. Given these balances were legitimately owed to BoS, I find this a positive action. And I’m satisfied this is enough to fairly compensate Miss R for any distress and inconvenience she was caused by BoS’ oversight.

Miss R has concerns with how BoS (and its agents) sought recovery from her before the balances were written off. I don’t have much information about this activity, but from what I’ve seen, I’m not persuaded it was unusual, or to a degree I find could

reasonably be considered excessive. A lender can take steps to recover a debt, and that's what BoS did.

I understand Miss R's strength of feeling. And I sympathise with the difficulties she's faced in general over the years. However, I must approach this matter objectively. Having completed my independent review of the parts of this complaint our service has the power to consider, I don't recommend BoS need to anything more."

Miss R didn't accept the investigator's recommendation. She said, broadly, that she wasn't sure the debts had been written off and said that BoS continued recovery activity after the alleged write-offs. She provided some evidence she considers supports her position, notably a letter from 2016 and two call recordings from 2017. As an agreement couldn't be reached the complaint has been 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.

While I accept Miss R is seeking further information which she may want to provide, I'm satisfied I have enough relevant information - which has almost all been provided by Miss R - to make a fair and reasonable decision, and I see no compelling reason to delay matters.

Like the investigator (and is not materially disputed by Miss R or BoS) I'm satisfied Miss R's accounts should have defaulted in or before 2008. By not doing this, the debts increased, and Miss R's credit file was adversely impacted for longer than it should have been. I am, however, satisfied this was addressed in 2015. I say this because BoS said it had been in July 2016 when it responded to a Data Subject Access Request query from Miss R. And Miss R has provided emails from 2015 from a credit reference agency confirming the same.

BoS' July 2016 letter also confirmed the debts had been written off in 2014. This would include the outstanding balances at the time the accounts should have defaulted, *and* any interest/charges applied from then onwards. Miss R isn't sure about this and says BoS continued to seek repayment of the debts. She's provided a letter from BoS from August 2016, and two call recordings she says are from 2017.

The August 2016 letter says what an outstanding balance of one of the accounts is. It appears to provide this information in response to a balance enquiry from Miss R. I therefore don't consider it to be a form of debt recovery activity.

The longer of the two call recordings is between Miss R and BoS' data team. There is no mention BoS is actively seeking recovery of the debts and the agent makes it clear she can't comment much because she deals with data queries, not account queries. The agent says she'll raise Miss R's concerns about what 'write-off' means (and other things) and accepts it can have different meanings. The shorter of the two calls, which appears to be a follow up call, doesn't contain any relevant information other than Miss R will be sent a letter.

There was a letter from BoS to Miss R in February 2017 - provided by Miss R as part of her submissions - which appears to have been in response to the two calls. It said, alongside a lot of other things, a write-off doesn't necessarily mean someone won't be asked to repay a debt in the future. But it also said a Close Account letter was issued in June 2015 to confirm Miss R's facilities had been closed with zero balances, but that the letter was returned marked as "addressee gone away".

I have seen no compelling evidence of BoS actively seeking recovery of the debts from

Miss R from around 2014 onwards. It follows I'm satisfied BoS did indeed write off the debts, in the sense Miss R will not be asked (and hasn't been asked for quite some time) to repay them.

Miss R is also concerned with BoS' recovery activity prior to the write-offs. While I have seen there were letters informing her of the outstanding debts and the need to take action, I haven't seen anything to persuade me this activity was unusual, or excessive.

Miss R, in response to the investigator's recommendation (and in previous testimony), has referred to a visit from two BoS 'henchmen'. She says they interrogated her for four hours and may have dropped listening devices to spy on her. I would consider this to be unusual and excessive recovery activity. However, I have been presented with no compelling evidence to support this happened.

Overall, I find BoS did make mistakes, namely by not defaulting the accounts properly when it should have. Compensation would be appropriate for that, given the likely impact it had on Miss R, especially in relation to her credit file. However, as I'm satisfied BoS is not asking (and hasn't asked for quite some time) for Miss R to repay her debts, I find she has benefited from that, and it's a significant amount of money. I don't find I can fairly and reasonably ask BoS to do more to resolve this complaint.

### **My final decision**

I don't require Bank of Scotland plc to do anything more to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 6 July 2023.

James Langford  
**Ombudsman**