

The complaint

Mr S and Miss F complain Bank of Scotland plc trading as Halifax unfairly defaulted their account.

What happened

The details of this complaint are well-known to both parties, so I won't repeat them again here. The facts aren't in dispute, so I'll focus on giving the reasons for my 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've reached the same conclusions as our investigators for these reasons:

- In January 2022, Mr S and Miss F exceeded their arranged overdraft. As payments weren't made to the account, it was eventually defaulted at the end of July 2022. Guidance from the Information Commissioner's Office suggests accounts should be defaulted when there are around three to six months of arrears. Given it's not disputed that Mr S and Miss F didn't make payments towards their account between January 2022 and it defaulting in July 2022, it doesn't immediately appear that Halifax treated them unfairly. However, before an account is defaulted, we would expect a business to make reasonable attempts to contact their customer about the outstanding balance and give them an opportunity to repay what is owed.
- Halifax has sent us evidence that shows they sent letters asking for payments towards the overdraft in February, March, and April 2022. In May 2022, Halifax sent a formal demand letter, and in June 2022 they sent a letter explaining the account would close in 30 days if the overdraft wasn't repaid. However, Mr S and Miss F say these letters were sent to their previous address and so they didn't receive them. Having reviewed these letters, it does appear the letters were sent to a different address to the one we hold for them on file.
- For me to say Halifax were at fault for Mr S and Miss F not receiving these letters, I'd need to be persuaded they were sent to Mr S and Miss F's previous address despite them being aware they'd moved. Mr S and Miss F haven't been able to confirm on what date they updated Halifax with their new address. But they have sent us letters they received from Halifax, addressed to their new address, in July and August 2022. As these letters were dated after the account was defaulted – I can't safely conclude that Mr S and Miss F updated their address in sufficient time for the arrears letters and formal demands to be sent to their new address. As such, I can't agree that Halifax treated them unfairly when considering the address used on these letters.
- Halifax has also sent us evidence to show their collections department sent text messages in March, April, May, and June 2022 to both Mr S and Miss F. And this evidence shows the messages were sent to the mobile numbers we have for them on

file. This demonstrates Mr S and Miss F ought to have been aware that action was required on their account in the months before it was defaulted. So, they were given the opportunity to communicate with Halifax to understand the status of their account and make credits towards it to prevent it from being defaulted.

- Mr S and Miss F argue that the letters Halifax sent didn't mention the word "default" and appear to be somewhat generic. I'm not persuaded by this argument given they've consistently said they didn't receive the letters – in turn, this means the wording Halifax used didn't influence their actions regarding making payments towards the account. But even if they had seen the letters, I don't consider the omission of the term "default" undermined the serious nature of the letters because they clearly explained payments were required and that Mr S and Miss F's credit files might be impacted if the account wasn't brought up to date.
- Mr S and Miss F have also complained it's unfair that Halifax defaulted their account when they were less than £10 over their arranged overdraft. The arranged overdraft was an outstanding debt they owed, and regular credits are expected to be made to an account that is utilising an overdraft. As this didn't happen, Halifax rightly removed Mr S and Miss F's overdraft and the whole balance became immediately repayable. That is what I'd expect a responsible bank to do, because overdrafts are intended to be for short term use - and banks are expected to ensure any borrowing (which includes arranged overdrafts) is affordable. Mr S and Miss F's use of the account from January 2022 onwards brought the affordability of the overdraft into question. That's why the letters sent by Halifax asked Mr S and Miss F to contact them if they needed support.
- All the evidence we've been provided suggests Halifax acted in line with the terms and conditions the account, and good industry practice. I appreciate Mr S and Miss F are unhappy with the impact the default is having on their credit score and ability to obtain credit. But I can't agree Halifax acted unreasonably when they defaulted their account.

I know this will come as a disappointment to Mr S and Miss F, but for the reasons above, I'm not upholding their complaint.

My final decision

My final decision is that I'm not upholding Mr S and Miss F's complaint about Bank of Scotland plc trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Miss F to accept or reject my decision before 15 April 2024.

Sarrah Turay
Ombudsman