

The complaint

Mr M complains that Bank of Scotland plc trading as Halifax allowed a payment to leave his account which has ultimately resulted in him entering an unauthorised overdraft.

What happened

Mr M says he has been put into financial difficulty because child maintenance payments have been taken out of his account when they shouldn't be. He says he was working full time until November 2023, but he lost his job. Mr M says he then started receiving benefit payments, however he received a letter to say child maintenance payments of £172 would be taken.

This caused Mr M to enter an unarranged overdraft, and he says he hasn't got any money to pay for his bills due to this. Mr M says he doesn't understand why Halifax haven't questioned these payments, and the situation is impacting his health. When he was transferred to their disputes team the line dropped. Mr M made a complaint to Halifax.

Halifax did not uphold Mr M's complaint. They said unfortunately, they don't have any control over the payment and they're unable to prevent the payment coming out of the account. This would need to be discussed directly with the maintenance group. Halifax apologised for the line dropping when he was transferred to the disputes team. Mr M brought his complaint to our service.

Our investigator did not uphold Mr M's complaint. He said he wouldn't expect Halifax to get involved with an issue that's essentially between Mr M and the child maintenance group. He said Halifax engaged with Mr M once they were made aware of the financial difficulty he was in. They applied a 30 day hold on the account with the view to conducting an income and expenditure assessment at the end of it.

Mr M asked for an ombudsman to review his complaint. He said there is proof that on three occasions before the date the money was taken out of his account there were funds available for the bank to make the payment. He said they would know about money entering his account and have access to his money before he does, so they should have made the payment on at least one of those three dates before the payment was actually made.

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've noted the strength of feeling that Mr M has about what happened here. Especially as he feels that Halifax could have made the child maintenance payment prior to when they did on 22 December 2023. So I know why this is important to him.

My understanding is that a deduction order was applied for on 25 October 2023, and the first payment was due to leave Mr M's Halifax account on 3 November 2023. But Mr M did not have enough funds in his account for the payment to be debited. Due to the type of account

Mr M has, this did not have an overdraft facility, so the payment could not have been made on this date. While Mr M did become overdrawn at a later date, this wasn't due to the payment leaving the account, this was because Halifax allowed Mr M cash to help with his financial difficulty. And I'm persuaded this was the right thing for Halifax to do based on his circumstances at the time, just before Christmas.

While there were occasions after this date where Mr M did have a sufficient balance for the funds to be paid, it would not be proportionate for Halifax to check Mr M's account balance each day and see if he had funds to make the payment, especially after Mr M did not have the available balance to make the payment when it was originally scheduled. If Mr M realised he had enough funds in his account to make the payment, it may have been possible for him to make a manual payment, or to keep the funds to one side knowing that they would be debited from his account at some point.

Ultimately Halifax had a duty to pay the funds. Mr M should have been reasonably aware that the maintenance services had requested a deduction order and the payments should have been starting from 3 November 2023. If he wasn't, then I'm unable to hold Halifax responsible for the child maintenance services communication with Mr M. And I'm unable to hold Halifax responsible for Mr M not ensuring he had sufficient funds in his account to make the payment when it was due.

From the letter Mr M forwarded our service from the maintenance services, they confirm the payment secured was done so correctly. So while the timing was unfortunate for Mr M when the payment was debited from his account on 22 December 2023, this would have needed to have been paid by Halifax.

This left Mr M in financial difficulty. But I do think that Halifax realised Mr M's vulnerabilities here, and even though it left Mr M overdrawn, they allowed him access to cash from the branch to help with his situation. I can see they also applied a hold on the collections activity to give Mr M breathing space and to put together a budget planner to see how he could afford to pay back the overdraft. I would expect Halifax to be mindful of Mr M's financial situation in putting together an arrangement to repay the overdraft.

Halifax also apologised to Mr M for the telephone line dropping. This would be frustrating for Mr M. So I'm persuaded that it was proportionate for Halifax to apologise for this, which they did in their final response to him. So it follows I don't require Halifax to do anything further.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 June 2024.

Gregory Sloanes
Ombudsman