

The complaint

Mr T complains that Bank of Scotland plc, trading as Halifax put a default on his credit report for a debt he disputes and wasn't aware of, and this has affected his ability to obtain credit.

What happened

When Mr T checked his credit report he noticed a default on a basic account he had held with Halifax many years ago. He said he switched to another bank in 2020, but because it was a basic bank account he couldn't use the switch service 'which would have closed my account with Halifax, or so this was the advice' from his new bank.

Mr T said he hadn't used his Halifax account again and was shocked to see a £251 default. He complained to Halifax, but it wouldn't reverse the default and wouldn't send proof it had written to say he was in arrears. He said Halifax only sent one letter which he didn't receive, and he wondered if this was linked to the incorrectly addressed response to his complaint in 2023. Mr T also complained to Halifax about this serious breach of his personal data.

Mr T said Halifax told him it couldn't write off the debt as it's with a collection agency, but this was a lie as it was still with Halifax. Mr T said so much time had passed and with his medical condition he was struggling to recollect the payment that caused the unarranged overdraft, and he couldn't recall dealing with the company in question. Mr T said he never signed a credit agreement with Halifax, and it shouldn't have allowed an overdraft for a basic account.

In its response Halifax said Mr T's basic account didn't include an arranged overdraft and it's his responsibility to have adequate funds to prevent an unarranged overdraft. Halifax said a payment made by Mr T on 15 July 2020 put his account into unarranged overdraft. And it sent him a 'Formal Demand Letter' on 8 September 2020 to the address on its system which explained the impact of non-repayment as a default on his credit report. Halifax said it no longer had a copy of the letter. It said it sold the debt to a third party but later brought it back.

Halifax then provided copies of letters sent to Mr T's correct home address on 22 August 2020, (advising him of the debt and offering payment support); a 'Formal Demand Letter' of 8 September 2020, and a letter of 14 October 2020, (*'we will have to close your account 30 days from receipt of this letter and transfer your account balance to our Recoveries team, unless you repay the outstanding balance in this time'*). These letters set out the implications of non-payment in terms of recovery action and Mr T's credit report. Halifax's records show that it first became aware of Mr T's medical condition when he told them in 2023.

Mr T said the default has been on his credit report for several years without an opportunity to put things right and would have caused his car finance to cost more. He disputes he owed this money and wants Halifax to write off the debt and remove the default. Mr T referred his complaint to our service.

Our investigator didn't recommend the complaint be upheld. He said Mr T's statements show a monthly payment that put his account into unarranged overdraft, as allowed by the terms and conditions. He said Halifax had sent Mr T three letters to his home address detailing the consequences of not paying the overdraft as well as how to do so. As it wasn't paid on time, this was correctly reflected on Mr T's credit file. He said Mr T is responsible for the effective management of his account and Halifax had given him ample notice to address the debt.

Mr T disagreed and requested an ombudsman review his complaint. He disputed that Halifax sent three letters about the debt as it said only one letter was sent and would have told him if it had sent three letters. Mr T said the terms and conditions for his bank account don't say anything about defaults and missed payments and so he didn't think it could issue a default.

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.

Mr T has told us that he raised a separate complaint concerning a letter from Halifax about his complaint being sent to the wrong address. I'm pleased to note that this complaint has now been resolved. Having considered the circumstances in the present complaint I am not upholding it and I haven't found there to be any impact from the mis-addressed letter from 2023 in relation to the issues raised by Mr T here.

I was sorry to see the impact of the default registered against Mr T's credit file, which he said is stopping him from getting a mortgage. Mr T doesn't appear to have requested Halifax close his accounts, until alerted to the default on his credit file in 2023. In assessing whether Halifax acted fairly, I've taken into account the relevant rules and guidelines along with good industry practice. There are general principles that say a bank should conduct its business with due skill, care and diligence and pay regard to the interests of its customers.

Mr T disputed that Halifax sent three letters about the debt as it sent *'a letter signed by them stating they only ever sent one letter'*. Mr T thought Halifax should have made more attempt to reach out and tell him he owed them money rather than just send one letter, and he believes the debt to be a banking error of some kind.

In its response letters to Mr T's complaint Halifax only refers to a 'Formal Demand Letter' that it sent him in September 2020, *'Your account stayed overdrawn and we wrote out to you on 8 September 2020 with a formal demand letter'*. This is a formal notice that Halifax is required by regulation to send to customers. Contrary to what Mr T has said Halifax didn't write that it only sent him one letter about his debt, in fact elsewhere in its response letters Halifax referred to the *'letters'* sent to Mr T. Having said this, I think it would have been helpful if Halifax had provided Mr T with copies of all three letters about his debt.

To be clear on this point, I've seen from Halifax's file notes a record of the dispatch of the three letters to Mr T about his debt. This corresponds with the copies of the letters sent in 2020, as described above. Unfortunately, Mr T hadn't registered for mobile app or online banking. Whilst Mr T says he hadn't received the letters, Halifax's records show they were sent and to his correct home address. From what I have seen Halifax has correctly followed the process we would expect in notifying a debt and the implications on non-payment.

I've looked at Halifax's information about the terms and conditions of Mr T's basic bank account and they show that arranged overdrafts are not allowed. Halifax states that when there's not enough money in the account to make a payment Halifax may let the customer borrow through an unarranged overdraft. Halifax states that *'missing payments and using an unarranged overdraft can damage your credit score.'*

Mr T said the debt was due to irresponsible lending by Halifax as the payments that caused the overdraft were for *'subscription services'* when *'it would be clear I was no longer using the account'*. I've seen the bank statements for Mr T's account and it's clear that he was using the account at the time. I see no reason why Halifax should have questioned the payments that I think Mr T arranged to make. Halifax could have blocked the payments Mr T had arranged but it tries not to cause its customers difficulties by taking this action in the expectation that customers will bring their accounts back into credit quickly. I think this is accepted as good industry practice and I don't view Halifax's actions as irresponsible lending.

I think Halifax explained Mr T's account clearly to him when it said his basic bank account meant he could not get an arranged overdraft, but it is his responsibility to manage the account and ensure there is enough funds in the account to prevent it from going into an unarranged overdraft.

Banks are required to provide credit reference agencies with accurate information and from what I have seen this is what Halifax has done in Mr T's case.

From what I've seen Halifax has followed the correct procedures in alerting Mr T to the debt and asking him to make repayment in three separate letters. Mr T was in an unarranged overdraft from July 2020 and Halifax offered him assistance should he need it. There has been no bank error in any of Halifax's dealings with Mr T's overdraft or in its handling of Mr T's account and it has treated him fairly and reasonably. It follows that there is no reason to uphold Mr T's complaint or award him compensation.

I think it's important to explain that my decision is final. I realise that Mr T will be disappointed by this outcome though I hope he appreciates the reasons why it had to be this way.

My final decision

For the reasons I have given it is my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 16 September 2024.

Andrew Fraser
Ombudsman