

The complaint

Mrs W is unhappy with Bank of Scotland plc, trading as Halifax (Halifax). She says that due to her personal and financial circumstances Halifax needed to do more to help her with her credit card.

Mrs W is also unhappy with how Halifax dealt with a Subject Access Request (SAR) she made.

Mrs W is represented in this matter by her husband, Mr W. For the purposes of this final decision I will refer mainly to Mrs W as it is her complaint.

What happened

I would like to reassure both parties that I have reviewed all the submissions made. However, as both parties are aware of what has happened I've not set out all the details of the events that have led to this complaint, but include only those that I consider relevant to resolving Mrs W's complaint.

Mrs W had held a credit card with Halifax for a number of years, but due to an increase in cost-of-living Mrs W found she was unable to maintain the expected payments to the card. On 27 September 2022 Mrs W used Halifax's app to complete an income and expenditure assessment of what payments she could afford to make, and attempted – via the app – to contact Halifax to let them know about her circumstances and to put some sort of arrangement in place for her payments. Mrs W worked out she could afford £20 per month. At this time Mrs W's balance (£5,381.17) exceeded her card limit (£5,250).

Mrs W's last payment to the card was made on 27 September 2022, via the app, for £50.

Attempts to communicate with Halifax via the app were unsuccessful so Mr W called Halifax on Mrs W's behalf, but this did not lead to an arrangement for Mrs W.

From September 2022 Halifax sent letters to Mrs W at Address 1 explaining there were missed payments on her account. On 26 November 2022 a default notice was sent to Mrs W at Address 1.

Mrs W's account was defaulted on 31 January 2023 and sold to a third party on 17 February 2023. The third party traced Mrs W to Address 2.

Due to an increase in rent they were unable to afford, Mrs W and her husband had moved to Address 2 at the end of September 2022.

On 8 February 2023 Mrs W wrote to Halifax to propose paying £20 per month towards the outstanding balance, and she also let Halifax know about her mental health which meant she was unable to call them.

On 10 May 2023 Halifax wrote to Mrs W at Address 1 to confirm her details had been changed (but did not specify what details had been changed). On the same day Halifax also

wrote to Mrs W at Address 2 to answer Mrs W's complaint. Halifax offered Mrs W £40 to recognise the app had not worked for her on 27 September 2022. The rest of Mrs W's concerns were not upheld.

Our Investigator concluded £40 was a fair offer to reflect the issue there had been with the app on that occasion, but did not uphold any other parts of Mrs W's complaint. The Investigator's considerations didn't include some of Mrs W's concerns about the SAR as these had not formed part of the complaint considered by Halifax that had been brought to us.

Mrs W disagreed and said the Investigator's findings were unfair. To summarise, Mrs W said communication attempts were made to engage with Halifax about the account, even if there were apparently no records of them on Halifax's side. Mrs W raised concerns Halifax had written to the two different addresses and had added her husband's number to her account. Mrs W also said Halifax should have done more to support her due to her vulnerabilities, and they had not shown her enough compassion.

Our Investigator was unable to resolve the matter so Mrs W requested an Ombudsman review the case. Before the case was passed to me, Halifax consented that Mrs W's concerns relating to the SAR could also be considered under this complaint.

I issued my provisional findings to both parties which are set out below and form part of this final decision.

Provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I am sorry to learn of Mrs W's personal and financial difficulties, and I recognise that this matter is important to Mrs W. But given some of the points Mrs W has raised, I feel it important to first set out the scope of my powers when considering the complaint.

Mrs W has raised numerous points about Halifax's wider practices. However, my role here is to consider the individual complaint based on what is fair and reasonable in the circumstances of the case. This means it is not for me to interfere with a firm's processes, systems or controls, nor is it for me to fine or punish a firm – that is for the regulator, the Financial Conduct Authority (FCA), to consider. This service is also not a court, so it is not for me to decide if a law has been breached.

I am also mindful that from both parties' submissions, it is apparent there is much in dispute about the communications between the parties which have led to this complaint.

Where the evidence is incomplete, inconclusive, or contradictory I have reached my decision based on the balance of probabilities – which, in other words, means I've based it on what I think is more likely than not to have happened given the available evidence and the wider circumstances.

At the heart of this matter is Halifax's engagement with Mrs W in relation to her account, and whether Halifax should have done more to help Mrs W to manage her account, particularly given her vulnerabilities. I've therefore considered what Halifax's responsibilities and obligations were, whether they met those responsibilities and obligations, and if not, what impact (if any) did this have on Mrs W – that is, would Mrs W still have found herself in the same position she is in now even if there had been no errors.

In considering what is fair and reasonable in all the circumstances of the case, I've taken into account the law and regulations, regulator's rules, guidance and standards, codes of practice and (where appropriate) what is considered to have been good industry practice at the relevant time.

I've first considered if it was reasonable for Halifax to record a default against Mrs W's account and sell the debt to a third party.

The Information Commissioner's Office (ICO) sets out guiding principles for businesses reporting arrears, arrangements and defaults. This sets out that by the time an account is at least three months in arrears, and normally by the time an account is six months in arrears, it's generally expected that a default will be registered.

According to Mrs W's August 2022 statement this showed Mrs W was due to make a minimum payment of £164.11 by 19 September 2022, but this did not happen. Instead Mrs W paid £50 on 27 September 2022, so the account fell into arrears from this point and remained over the credit limit.

At the time Halifax issued the default notice, Mrs W's account was now three months in arrears as no payments had been received since September and the account had not been brought up to date. The account was defaulted at the end of January 2023 after a further two months had passed without payment. So, taking into account the industry expectations here, I can't say that it was unreasonable for Halifax to have registered the default when they did.

I've also considered Halifax's responsibilities as set out by the FCA. This includes the Consumer Credit sourcebook (CONC) – which is the specialist sourcebook for credit regulated activities; the FCA's overarching principles and the FCA's guidance for firms on the fair treatment of vulnerable customers.

CONC 7.3.2 sets out that firms need to deal with customers in default or arrears fairly with forbearance and due consideration.

There is nothing to suggest how often or by what communications channel a firm should attempt to contact a consumer in arrears before defaulting an account. I've therefore considered what has happened in Mrs W's case and whether it is fair in the circumstances.

I've considered what Halifax did to try and let Mrs W know about the increasing arrears on Mrs W's account.

I can see that before the account was defaulted Halifax wrote to Mrs W – at Address 1 – about the outstanding credit card balance on 15 October 2022; 20 October 2022; 1 November 2022; 26 November 2022; 22 December 2022 and 30 December 2022. I don't think it was unreasonable that Halifax wrote to Mrs W at Address 1. This was the last known address they held for her.

I am mindful that it is a consumer's responsibility to ensure they keep their credit provider updated with any changes regarding their circumstances. Mrs W submits she made Halifax aware of her change in address at the end of September 2022, but having reviewed the available submissions there is nothing to support Halifax was notified of this.

It appears the first recorded hint of a change of address was the result of the third party's trace which returned a strong suggestion Mrs W was now at Address 2 based on the activity at that address. This trace wasn't carried out until 22 February 2023, as supported by Halifax's internal notes, when the third party let Halifax know about Address 2. So it was not a formal change of address submitted by Mrs W that introduced Address 2 to Halifax. I will

return to this point in more detail later on.

Halifax's records also show that as a matter of course texts may have been sent to Mrs W notifying her of when her statements were available for her to see. I've reviewed Mrs W's statements from September 2022 and for the months that followed prior to the default being registered. The "Important Information" on the first page of the statements does vary, but from September 2022 this section on the statements encourages Mrs W to get in touch and at times includes the potential impact of what might happen if Mrs W doesn't pay the sums due. The September 2022 statement also shares where online Mrs W can go to find more support if needed.

In view of the above, it appears Halifax had reasonably tried to make contact with Mrs W about her account.

I'm aware Mrs W has made several detailed submissions relating to her vulnerabilities and that Halifax should therefore have done more to support her and engage with her about how to manage her account. I realise these are important points for Mrs W so I have given them careful consideration.

I recognise the FCA has set out guidance for firms about how they engage with vulnerable consumers, but I am also mindful that it would be unreasonable to expect a firm to change or adapt how they are interacting with a customer if they are not aware of any need to do so. In view of this I've therefore next considered when Halifax was likely to have been aware of Mrs W's personal situation.

I understand from Mrs W's submissions she has been experiencing mental health problems for over 10 years and due to her health she does not work. Mr W is her carer. I have no reason to doubt what Mrs W has said about her health or the length of time she has been managing it. And I think Mrs W would be recognised as a vulnerable person by the FCA's definition. However, I have not seen that Halifax was aware of the circumstances regarding Mrs W's health before the account was defaulted.

It is of course Mrs W's choice to share information about her health with Halifax, but as I've already noted, it would be unreasonable to expect a business to act on something it is not aware of.

Our Investigator took steps to try and locate any of the calls Mrs W says were made by her husband to let Halifax know about her condition and her financial circumstances. However, other than a call on 10 May 2023 which Halifax have logged (and which I refer to below), neither party has been able to support that calls took place between Mr W and Halifax prior to the sale of the debt.

Our Investigator also attempted to obtain copies of any messages Mrs W says she sent via the app about her personal and financial circumstances. Unfortunately, without more specific dates/ timings Halifax have said the limitations of their systems are not able to isolate any potential messages from Mrs W from the thousands of messages they receive from customers.

Mrs W also emailed us a copy of the letter she sent to Halifax dated 8 February 2023. Halifax have said there is no record of this letter on their systems, and Mrs W is unable to support that the letter was sent to Halifax.

I've considered what Mrs W has said that due to the difficulties of their circumstances around that time it meant she and Mr W had not kept any records of when they had tried to make contact with Halifax or by what means of communication.

I acknowledge this was clearly a difficult time for Mrs W and her husband, and my findings here are not to diminish the set of circumstances Mrs W and her husband found themselves in around that time. But I am sure the parties can see the difficulty I have here – as I was not involved in these communications I am unable to know exactly what happened. I therefore have to reach a finding based on what I consider is more likely than not to have happened. I realise this will be disappointing for Mrs W, but having weighed up all the submissions available to me, on balance I do not think Halifax were aware of Mrs W's mental health condition until 10 May 2023 when Halifax's notes show Mr W called on Mrs W's behalf. The relevant note records "Customer partner called to advise customer has mental health issues, would we repurchase?" The note further records that the response to Mr W was "adv that if we have no knowledge prior to sale and no instruction from VUL team, then we would not repurchase. Also adv that purchaser will have their own vulnerable team who will deal sensitively".

Based on the available evidence and submissions I therefore think it's unlikely Halifax were aware of Mrs W's mental health condition until 10 May 2023.

In the circumstances, it therefore follows that I don't think it would be fair to say Halifax could reasonably have been expected to engage with Mrs W differently to other customers before this time. And by 10 May 2023 the debt had already been sold, so Halifax's responsibilities for the ongoing management of the debt had now therefore passed to the third party.

In the circumstances, it was reasonable for Halifax to register the default when they did and subsequently sell the debt. And based on the submissions available to me, I've also not seen anything to suggest Halifax were unreasonable in their dealings with Mrs W prior to the sale of the debt given what they most likely knew at the time. So I am not minded to uphold Mrs W's complaint.

It may help Mrs W to know that even if I were to conclude Halifax should have done more to help her, I am not persuaded Mrs W would have found herself in a different position to the one she is in now.

I think it's fair to say Mrs W was aware of the outstanding balance on her card and she had not made any payments towards it since September 2022. I also understand Mrs W's payment in September 2022 had been made via the app, so this was something she could manage without having to call or go into a branch.

Having reviewed Mrs W's statements they show that from January 2022 Mrs W's outstanding balance was over the limit or only a small amount below the limit of the card. Mrs W's payments to the card were also rounded up a little from the minimum payment required, and Mrs W was continuing to spend on the card in the months leading up to the last payment that she made. By Mrs W's own submissions, it is apparent that financially this was a difficult time for her and Mr W and they had moved home to help manage their situation. While I've considered Mrs W's points that she was making several attempts to engage with Halifax and she was proposing £20 per month as a payment she could manage, Mrs W made no payments at all to the account after September 2022.

Arrangements on credit facilities are typically recognised as short-term measures and it may help Mrs W to know that such arrangements do not always prevent a default.

So even if I were to conclude Halifax could have reasonably done more to help Mrs W, I am not persuaded this would have prevented Mrs W's account from being defaulted. To clear an outstanding balance of over £5,000, paying £20 a month would have taken over 20 years. I note Mrs W's income was comprised of benefits, and it seems unlikely her financial

circumstances were likely to improve in the near future. So it appears Mrs W's situation was not of a short-term nature. But as I've already noted above, I've not seen enough to say that Halifax were unreasonable in registering the default when they did.

I'm aware Halifax accepted there was an attempt by Mrs W to complete an income and expenditure assessment via the app on 27 September 2022, which they acknowledge did not reach them. They offered £40 for any error with the app at that point. I think this is fair to recognise what happened on 27 September 2022 with the app. I have noted Mrs W has said there were numerous problems with the app, but Halifax have said there were no wider problems with the app.

I've also considered Mrs W's concerns about how Halifax handled her information and the SAR.

I note Mrs W is unhappy Mr W's mobile phone number was recorded against her account as a work contact number. This became apparent after the debt was sold and Mr W began to receive calls and messages about Mrs W's account from the third party. Mrs W has said she does not work so would not have recorded a work number, and she would not have added her husband's number to her account like this.

I've reviewed the submissions and available evidence. However, I'm unable to find that Halifax passed any information to the third party that they should not have. Halifax have been able to show through their systems that Mr W's phone number was added to Mrs W's account using Mrs W's personal login for the app in March 2019. So I think it's more likely than not Mr W's phone number was added by Mrs W rather than by Halifax. So I don't think Halifax did anything wrong when including this number as part of Mrs W's details when they sold the debt.

I can also see that Halifax took reasonable steps to remove the number and let the third party know to do the same once they were made aware Mrs W did not want the number associated with her account. So I don't think Halifax have done anything wrong here.

Mrs W's submissions also raise concern about how Halifax in the same month wrote to both her old and new address. Mrs W submits this is an indication that Halifax must have received her letter dated 8 February 2023 to know that she had moved home. However, I am not persuaded that Halifax have done anything unreasonable here.

For the reasons I noted earlier I think Halifax only became aware of the new address when they were made aware of it by the third party following the third party's trace. On balance I do not think Halifax had received any change of address instruction from Mrs W. The letter dated 10 May 2023 to Address 1 did not acknowledge any such change of address instruction. It appears therefore that Halifax were only writing to Mrs W at Address 2 due to the results of the third party's trace together with the fact there had been no response to previous correspondence they had sent to Address 1, so they had strong reason to believe Mrs W was no longer there.

In view of this I don't think Halifax acted unreasonably in writing to Mrs W at Address 2 when they did.

Mrs W also submitted that Halifax were creating obstacles to her being able to obtain her SAR. This was because Halifax requested that Mrs W attend a branch with identification to process the SAR (for it to be sent to her), or that she could receive the 'package' at the branch – by which I understand this to mean Mrs W's SAR could be sent to the branch but she would then need to attend the branch with identification for them to give it to her.

From the submissions I can see that interacting with unknown persons – either on the phone or in the branch – is not something Mrs W is comfortable doing, as due to her mental health it causes her much distress and her submissions are that this is not something she can manage which is why it is her husband who helps her in such circumstances.

I realise this means it is not easy for Mrs W to manage some day-to-day matters and I am sorry to learn this. My findings here are not intended to diminish Mrs W's experiences and challenges, but taking everything into account, I've not seen enough to make me think Halifax did anything wrong either in terms of the information they had recorded for Mrs W or what they passed across to the third party when the debt was sold. From the submissions available I've also not seen enough to suggest that Halifax were aware Mrs W would be unable to attend a branch. So on balance, in the circumstances, I've not seen enough to suggest Halifax acted unfairly.

However, going forward, if Mrs W still wishes to make a SAR she should let Halifax know and Halifax should be mindful of Mrs W's vulnerabilities and engage with her fairly to arrange this for her.

Responses to my provisional decision

Halifax confirmed receipt of my provisional decision and said they had nothing further to add.

Mr W confirmed receipt of my provisional decision on Mrs W's behalf and did not agree with the findings. Mr W and Mrs W said there appeared to be no understanding by financial organisations about how to engage with and support people who have a mental illness.

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 have considered what Mrs W has submitted in reply to my provisional decision and I would like to again reassure Mrs W that my findings are not intended to cause further upset as I recognise her situation is not easy.

While I note Mrs W's strength of feeling about this matter and her wider concerns about the financial industry, I am limited to what has happened on this particular case. Given the available evidence and submissions, for the reasons I've set out above I am unable to find that Halifax acted unreasonably in these circumstances. This of course does not take away the obligations and responsibilities Halifax have going forward in any further dealings they may have with Mrs W. Therefore I do remind Halifax that going forward they should be mindful of this and treat Mrs W fairly when engaging with her.

In the circumstances, having reviewed Mrs W's case again, there is nothing to persuade me to depart from my provisional decision and the provisional findings I have set out above.

My final decision

For the reasons above, my final decision is that I do not uphold Mrs W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 27 September 2024.

Kristina Mathews

Ombudsman