

The complaint

Mrs E complains that Bank of Scotland plc trading as Halifax cancelled her direct debit without her permission and without informing her.

What happened

Mrs E banks with Halifax and used the account to pay her credit card bill by direct debit. However, in mid-2023, Mrs E's credit card company told her that she had missed a payment because her direct debit instruction had been cancelled.

After Mrs E complained to Halifax, it said it didn't receive the mandate to set the direct debit up until July 2023. So, if the credit card company had tried to take payment before this date, the mandate wasn't active.

Our investigator agreed that Halifax had not made a mistake as the evidence showed the direct debit was not created until 12 July 2023. Our investigator said that Halifax doesn't control the setting up of the direct debit so he didn't ask it to refund any interest or late payment charges.

Mrs E explained there was an existing direct debit set up in favour of the credit card company. So, even if the credit card company issues a new card, the direct debit normally continues.

After our investigator went back to Halifax, it said that although a direct debit had been set up in 2018, the credit card company had not requested payment between December 2021 and July 2023. Halifax said that under the dormancy rules put in place by Bacs, a direct debit instruction expires if uncollected for 13 months. Halifax said the credit card company should have been aware of these rules and realised that a new direct debit instruction would be required.

Our investigator realised that Halifax's explanation had changed but said it didn't alter his view that the problem with the direct debit was not caused by something Halifax had done. Our investigator suggested that Mrs E raise her concerns with the credit card company.

Mrs E was unhappy with the investigation outcome. She asked where it said in Halifax's terms and conditions that a direct debit may become inactive after time. Mrs E said she had spoken to another bank which told her it did not have authority to refuse payment of a direct debit even if it had been set up and not used for several years.

Mrs E said that a change in the dormancy period from 13 months to 24 months meant her direct debit should have remained active.

As Mrs E remained unhappy with the outcome, her complaint came to me to decide. After considering everything, I decided to uphold her complaint and issued my first provisional decision on 29 April 2024 which said:

I know that Mrs E disagrees with our investigator's assessment of her complaint and

has raised several reasons why she thinks Halifax was wrong to cancel the direct debit. I don't want to appear dismissive of her concerns but the purpose of my decision is not to address or answer every single point raised. Instead, my role is to consider the evidence and reach what I think is a fair decision. I hope that Mrs E will understand.

In Mrs E's case, I am upholding her complaint and will explain why by first setting out some background to way that direct debits work.

A direct debit is an instruction from a customer to their payment service provider authorising an organisation to collect money from their account. The direct debit scheme rules include requirements for direct debit instructions that haven't been used for a long time. These were introduced as a safeguard to protect payers from direct debit instructions being live on their account indefinitely.

It used to be the case that the direct debit scheme rules required paying banks to hold details of direct debit instructions for a minimum period of 13 months from the date of last collection. However, the rules were revised and with effect from 1 January 2022, the dormancy period was changed to a minimum 24 month period.

This means that payment service providers such as Halifax should hold details of direct debit instructions on file for a minimum period of 24 months from either the date the direct debit instruction was set up or from the date of the last collection.

In Mrs E's case, the credit card company last collected her payment by direct debit in December 2021. So, when the credit card company tried to claim the payment in June 2023, less than 24 months had passed since the last collection. This means that under the revised dormancy rules, Halifax should have still held details of the direct debit instruction.

Mrs E had funds available in her Halifax current account to pay the monthly payment due on her credit card. So, it seems to me that if Halifax had not cancelled the direct debit instruction, her credit card payment would have been received on time. And Mrs E's credit card company would not have applied late charges and interest to her account.

As the 24 month minimum dormancy period had not passed at the time Mrs E's credit card company tried to collect payment, I would not have expected it to obtain a new direct debit instruction as Halifax suggested it should have done. This makes it difficult for me to say to Mrs E that she should look to her credit card company to put things right.

Although Halifax's internal direct debit dormancy policy was based on the previous 13 month minimum, as the scheme rules had changed, I think it reasonable to have expected Halifax to have updated its policy. As I think Halifax made a mistake when it cancelled the direct debit instruction before the minimum dormancy period had expired, I am upholding Mrs E's complaint.

Putting things right

When I uphold a complaint, I look to put the consumer back in the position they would have been had the mistake not happened. I can also award compensation to reflect the inconvenience and upset caused.

I don't know whether Mrs E's credit card company has refunded the late payment

charges that it applied to her account. If it has already done so, I don't consider it would be fair to require Halifax to also refund the charges. So, Mrs E should let me know when responding to my decision whether she has already received a refund. Ideally, with copies of her credit card statements so that I can check whether there is only one late payment fee of £12 or more.

I will also need to see whether the interest charge of £5.61 from 17 July 2023, which appears on Mrs E's credit card account statement, was only payable because her monthly payment was late. If it was, then I would look to Halifax to refund this as well if the credit card company has not already done so.

Once I have this information from Mrs E, I can then include appropriate directions in my final decision. These will include an award of interest on any late fees to recognise the fact that Mrs E was deprived of this money in her Halifax account.

It is also not clear to me whether the credit card company has reported any late payments to any of the credit reference agencies. Again, it would be helpful to have an answer to this when Mrs E responds to this decision. Although I can't require Halifax to remove credit file entries which don't belong to it, I can still ask Halifax to help Mrs E get any negative information related to the late payment removed by her credit card company.

Finally, I think it's fair to award compensation to Mrs E for the inconvenience and upset caused by Halifax's mistake. Given the worry she's had and the otherwise unnecessary communication with both Halifax and her credit card company I think an award of £250 is fair. This is towards the top end of an award we might make where the impact has been more than minimal and has taken a reasonable effort to resolve.

In Mrs E's case, I don't think things were helped by the fact that Halifax initially didn't mention the cancelled direct debit, instead saying that as the credit card company only set the direct debit up in July 2023, it couldn't have been called on to make the payment in June. This led Mrs E to spend even more time trying to resolve her concerns. So, I do think my award is reasonable in the circumstances. Our approach to awards such as these can be found on our website.

Further submissions

Mrs E accepted my first provisional decision and supplied some further information about the impact on her but Halifax did not accept the outcome.

In summary, Halifax stated that it never said the original direct debit instruction had been cancelled on its system. Halifax said that the direct debit last collected in December 2021 was still active on its system. Halifax said that Mrs E has two active direct debits to the credit card company and supplied evidence of this.

Halifax said that the reference to "no instruction" on Mrs E's credit card statement is different to saying the instruction had been cancelled. By referring to "no instruction", this would mean there was no active direct debit.

Halifax gave the originator reference for the instruction it held from 2018, as well as the new instruction, which used a different reference number. It noted that our investigator thought the reason for this is that Mrs E had been given a new credit card for the same account. However, Halifax asked whether the direct debit had been returned through AUDDIS because the reference used didn't match the original mandate. Halifax asked whether the credit card company had supplied a copy of the AUDDIS report to show that it received a

code indicating that Halifax had cancelled the direct debit.

Halifax said that it had no record of a request in 2023 being rejected or that this was cancelled and reinstated. Halifax asked what evidence we had from the credit card company.

Second provisional decision

After reconsidering the information supplied in response to my first provisional decision, I decided not to uphold the complaint. As this was a change in outcome, I issued a second provisional decision on 6 January 2025.

I explained that after Halifax shared its' concerns about my first provisional decision, we went to Mrs E's credit card company for further information. Once this was received, we shared it with Halifax.

I said that as Mrs E's complaint concerned the actions of Halifax and not the credit card company, I could only consider whether Halifax had made a mistake.

I explained that AUDDIS stands for the Automated Direct Debit Instruction Service. This enables organisations to send new direct debit instructions to their customers' payment service and reports returned invalid instructions on the AUDDIS Bank Rejected Direct Debit instruction Report. Mrs E's credit card company could not supply a copy of the AUDDIS report for the failed direct debit payment. But it shared a copy of her credit card statement. The entry for the failed payment entry on 5 July 2023 was marked "Unpaid Dd – no instruction". Although I had previously understood that Halifax cancelled the original direct debit or had marked the instruction as dormant, this didn't seem to be the case as evidence supplied by Halifax showed the direct debit set up in 2018 was still active in early July 2023.

Halifax had supplied evidence that it held two active direct debit instructions for Mrs E – one set up in 2018 and a second set up in July 2023 after the first attempt to take payment failed – both with different reference numbers.

As I didn't have enough evidence to conclude that Halifax cancelled the original direct debit, or marked it dormant, I thought it more likely that the reference Mrs E's credit card company used to try and claim payment from Halifax in early July 2023 didn't match the active direct debit reference. And that this could have led to the payment being automatically returned through AUDDIS as unpaid.

As Halifax doesn't control the direct debit, including the reference used, I couldn't fairly find that the first attempt to take payment failed because of something that it got wrong.

Submissions in response to my second provisional decision

Halifax agreed with the outcome in my second provisional decision. It said the evidence shows two active direct debits to Mrs E's credit card firm with different references. The latest of the direct debits was only set up after the first failed payment in July 2023. Halifax said that without a AUDDIS report showing that it had decided to decline the first attempt to take payment, Halifax had not made a mistake. Halifax said it had no evidence that it received a request for payment in early July 2023 on the direct debit set up in 2018. Finally, Halifax said it would have paid an active direct debit if the customer has sufficient funds – as Mrs E did at the time.

Mrs E was understandably upset with the change in outcome and asked how she could go about complaining to her credit card company.

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 am sorry to disappoint Mrs E with the decision I have now reached. The nature of provisional decisions means that they can sometimes change once further submissions are received.

As I said to Mrs E in my second provisional decision, the complaint I have considered is against Halifax, not the credit card company. It would not be fair for me to make a finding on whether the credit card company is responsible for the problems Mrs E encountered. Although I said that the payment may have failed due to the reference not matching the active direct debit reference set up in 2018, this is just a possibility which would require further investigation should Mrs E complain to her credit card company.

The reason I don't consider I can uphold Mrs E's complaint against Halifax, is because Halifax has no record of a failed attempt to take payment in early July 2023. Halifax has shown that it has two active direct debits to Mrs E's credit card company with different reference numbers. Although Halifax suggested at one point that the direct debit instruction might have been returned as unpaid because it was dormant – this does not seem to have been the case. And I don't have enough evidence to conclude that Halifax cancelled the 2018 direct debit instruction.

For all the reasons outlined above, I don't consider Halifax is to blame for the failed payment, so I don't require it to take further action or pay compensation.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 13 February 2025.

Gemma Bowen
Ombudsman