

complaint

Mr M has complained Bank of Scotland plc, trading as Halifax, keeps sending him letters requiring him to pay a disputed debt on his credit card. He believes this is harassment.

background

Mr M disputed a payment on his Halifax credit card account. He wasn't willing to discuss the detail of this with Halifax so they felt they couldn't carry out a proper investigation. Mr M didn't pay this debt and eventually closed the account with this amount outstanding. He's upset at the level of contact he's been getting from Halifax and believes this is harassment. Halifax doesn't think they've done anything other than keep him informed about the debt. Mr M brought his complaint to the ombudsman service.

Our adjudicator reviewed the correspondence Mr M had received from Halifax. He'd got six letters about the debt itself although there were additional letters about closing accounts. He didn't feel this amounted to harassment. Mr M strongly disputed this finding.

His complaint has been passed to an ombudsman to make a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've reached the same conclusion as our adjudicator. And for roughly the same reasons.

Mr M has specifically asked us to consider what constitutes harassment under the legislation. Actually we're not a court and whilst I'll take the legislation into account, I'm really considering guidance the Office of Fair Trading issued a few years ago. This was about what constituted harassment when a debt was being collected.

I won't repeat the detail of this as our adjudicator has already shared this with Mr M. And I appreciate that different people will believe something feels like harassment whereas others wouldn't necessarily feel the same. But my role is to be impartial and decide what I believe is fair and reasonable. Mr M received six letters about his debt over a period of five months. At least two of these were letters Halifax is required to send under consumer credit legislation (including notice of arrears and formal notice of intention to default). So I don't think it's reasonable to say Halifax has done anything wrong in sending these letters.

I know Halifax were also sending Mr M letters about other aspects of his accounts. These were not about the debt. I also know Mr M asks Halifax to only contact him by letter. So I appreciate he'll have received a few more than six letters but that doesn't make any difference to my conclusion.

I hope I'm not underplaying how seriously Mr M takes this issue. There's obviously a matter of principle at stake for him. And to that end I discussed with Halifax whether they'd be prepared to write off this debt. I wasn't sure how realistic it would be to expect Mr M will be willing to deal with the debt recovery company who are now managing the debt on Halifax's behalf. I should stress we don't encourage customers to refuse payment but Mr M feels strongly about how this payment was first made. And that this happened without his permission. Our service has already confirmed Halifax was acting fairly by expecting Mr M to

answer questions about this fraud before. I can't look at this aspect again. But I see he disagrees with this and, so far, has refused to sort this out with Halifax.

In the end although Halifax felt they'd done nothing wrong, they confirmed they would write off the debt in the hope of bringing this to an amicable conclusion. I'm grateful to them for doing this. I understand they will no longer ask Mr M to pay this debt.

I confirmed this to Mr M. Whilst he's happy about this, he told us he'd received a number of further letters from the business trying to recover the debt of Halifax's behalf. The point he made is that the test of harassment may be applied to a valid debt but he disputes this debt was ever valid in the first place. I appreciate Mr M's point of view but this doesn't change my mind on what I think is fair.

And even if I'd felt Halifax were harassing Mr M (which as I've stated, I don't), any compensation would have been less than the money Halifax has agreed to write off. Taking everything into account, I don't think it would be fair to ask them to do anything else.

my final decision

For the reasons I've given, my final decision is not to uphold Mr M's complaint against Bank of Scotland plc, trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 10 November 2017.

Sandra Quinn
ombudsman