

complaint

Miss K complains that Bank of Scotland Plc (trading as Halifax) continued to pursue her for a debt, and defaulted her account, after she'd declared bankruptcy.

background

Miss K banked with Halifax and had an account with an overdraft facility. She was declared bankrupt in June 2018, and the bankruptcy order included her overdraft debt with Halifax. However, Halifax said it was unaware of the bankruptcy until the following year.

Miss K said she expected that the Accountant in Bankruptcy (AIB) of Scotland's Insolvency Service had informed all of the relevant creditors of her bankruptcy, including Halifax. The AIB confirmed it wrote to all of Miss K's creditors on 4 June 2018. However, the AIB said it had recorded another business as acting on behalf of Halifax, so it sent the bankruptcy documents there. Halifax said it didn't receive the notice of bankruptcy, and said the other business wasn't acting on its behalf.

Halifax followed its usual process in regard to Miss K's outstanding account. It sent letters requesting payment of the overdraft balance and issued warnings that the account could default. The account was defaulted in January 2019, and the debt was passed on to a third party who began contacting Miss K for payment.

When Miss K contacted Halifax about the requests for payment, it said it hadn't received any bankruptcy documents, and asked Miss K to contact its specialist team.

Halifax said it didn't receive the bankruptcy order until April 2019, when it was sent by Miss K's Financial Advisor. After receiving the bankruptcy documents, Halifax wrote off the debt and Miss K was no longer pursued for payments.

Miss K complained to Halifax about the default issued against her in January 2019. She said she was declared bankrupt seven months prior to this, and the bankruptcy included the same debt. She was also unhappy that Halifax, and later a debt collection agency, had continued to pursue her for the debt. Halifax said it didn't have a record of receiving the bankruptcy documents at the time, so hadn't made an error.

my provisional findings

In my provisional decision I said:

It's clear to me from the evidence provided that Halifax wasn't sent the bankruptcy documents until April 2019. Although Miss K informed Halifax of the bankruptcy earlier by phone, this wasn't enough for Halifax to take action. Halifax needed to see the bankruptcy order so it could check that the overdraft debt was included – this is something which it's entitled to do.

Halifax issued a default against Miss K in January 2019, and passed her details to a third party debt collection agency. As Halifax didn't receive the bankruptcy order until April 2019, I don't think it's unreasonable that it pursued Miss K for payment of the overdraft, and defaulted her account after the order had been issued.

I know that Miss K was unhappy to receive contact about repaying the debt, but I can't see that Halifax has done anything wrong here, as it hadn't received the bankruptcy documents at the time.

However, I agree with Miss K that it's unfair for her to have a default showing on her credit file in January 2019, for a debt covered in the bankruptcy declared seven months earlier. It wouldn't be fair for me to ask Halifax to remove the credit file entry completely, as the account was defaulted and this should be reflected. But, the date of the default should be corrected so that it doesn't remain on Miss K's credit file for longer than necessary.

To put things right, Halifax should amend the date of the default entry it recorded against Miss K's credit file to 4 June 2018 – the date the bankruptcy order was issued.

response to my provisional decision

Halifax accepted my provisional decision and had nothing further to add. Miss K accepted the decision and said she wanted her credit file updated straight away.

my findings

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

There isn't anything more for me to consider as neither party has provided any new information or comments. My final decision therefore remains as outlined in my provisional decision, for the same reasons.

my final decision

My final decision is that I direct Bank of Scotland Plc (trading as Halifax) to make the relevant updates to Miss K's credit file to reflect that the account defaulted on 4 June 2018. And it should do this as soon as possible.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 1 December 2019.

Gemma Warner
ombudsman