

complaint

Mr S complains Bank of Scotland plc, trading as Halifax, closed his current account without any warning, instead of helping him when he got into difficulties. He also complains that Halifax involved a debt collection agency, rather than dealing with him directly.

background

Mr S has a Halifax current account with an overdraft. He used to have a credit card issued by Halifax too – more on that later.

Mr S says he had to move home unexpectedly and, as a result, incurred costs that meant he exceeded his overdraft limit. He asked Halifax for help with his moving costs. Halifax spoke with Mr S several times about how he intended to repay his overdraft. In January 2017 Halifax wrote to Mr S asking him to complete an income and expenditure form. Mr S says he completed this form and sent it back to Halifax. Halifax says it didn't receive the form Mr S says he returned, or any payments from Mr S towards his overdraft. Halifax, therefore, closed Mr S's account and asked a debt collection agency to recover the debt. Mr S says he was unaware of this at the time.

Mr S says he visited a Halifax branch to apply for a loan – having not heard back from Halifax about the help he needed and not knowing his account had been closed – to pay the additional costs he'd incurred as a result of moving. He says Halifax declined his application saying he didn't meet their affordability criteria and because he had an historic credit card debt. He says he found out his account had been closed too and that a debt collection agency had been appointed. He complained to Halifax about his account being closed and a debt collection agency being appointed. He also complained to Halifax about his loan being declined saying that he'd gone to Court and had obtained an order requiring them to remove the credit card debt. I'm not dealing with Mr S's complaint about Halifax not removing his credit card debt – this decision is only going to deal with Mr S's complaint about his current account and overdraft.

Halifax investigated Mr S's complaint about his current account and overdraft. Halifax said that they had written to Mr S to find out why his overdraft had increased and had asked him to complete an income and expenditure form to help them understand his situation. Halifax said that they didn't receive the income and expenditure form back. Halifax said that because they hadn't had any response to their correspondence and because Mr S had not made any payments onto his overdraft for several months, they closed Mr S's account and passed his debt to a debt collection agency. Halifax accepted that Mr S had returned their income and expenditure form and apologised that they hadn't received it. To put things right, Halifax offered to do what they would have done had they received and considered Mr S's income and expenditure form. Specifically, Halifax said that they would refund charges totalling £142, give Mr S 60 days to repay his overdraft and, in the event that he was unable to do so, backdate the default they had applied to his account to January 2017. In other words, backdate the default they had applied to his account to the date they would have closed his account had they considered his income and expenditure form. They also offered to compensate Mr S with £250 for the closure of the account and the handling of his complaint.

Mr S was unhappy with Halifax's proposals, believing they had been unsympathetic to his recent unexpected additional costs, caused by the move. He said he wanted Halifax to

remove the debt collection agency from collecting the debt, write off his overdrawn balance and reactivate his current account. Halifax disagreed so he brought his complaint to our service.

One of our investigators looked into Mr S's complaint but didn't think that Halifax had acted unfairly. They thought that Halifax had been sympathetic to Mr S's needs during a time when his outgoings had begun to increase and considered their actions to have been fair. Mr S wasn't happy with our investigator's response, so asked for an ombudsman to consider his complaint. He also said that the complaint was making him anxious and was having an impact on his health.

my findings

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

I can see that Mr S had to move unexpectedly in 2016 and this meant he incurred significant costs. He applied to Halifax for a loan and was declined. I accept that this was, in part, because of an historic credit card debt that ought to have been written off. I can, therefore, understand why Mr S was annoyed about this. Although he complained about that, we've said we're unable to look into that complaint.

I can see that Halifax had written to Mr S say that he'd exceeded his overdraft limit and asked him to complete an income and expenditure form. Halifax wanted to know how Mr S was going to repay this debt.

I can see that Mr S expected Halifax to help him with the costs he was incurring and, given that he was unhappy about his loan being turned down, I can understand why he's disappointed with Halifax's decision not to lend him further funds. However, Halifax have an obligation to lend in an affordable and responsible way. So I don't agree with Mr S that Halifax should have helped him with his moving costs. I do, however, agree with him that Halifax should have helped when, as a result of incurring these costs, he got into financial difficulties. In particular, I'd expect Halifax to treat Mr S positively and sympathetically.

I can see that Halifax asked Mr S to send them details of his income and expenditure when he went over his overdraft limit to see how he could repay his debt and this is something I'd expect Halifax to do. I would then have expected Halifax to consider those details to work out if Mr S was able to repay his overdraft in an affordable way and within a reasonable timescale. Unfortunately, Halifax say they didn't receive the form, although there seems to be no dispute that Mr S returned it. They have also, therefore, accepted that they didn't suspend charges and interest and didn't give Mr S an opportunity to repay the overdraft.

Given what I've just said, I think Halifax's proposal – to put Mr S into the position he would have been had Halifax acted on his income and expenditure form – is a fair and reasonable one. In other words, I think it's fair and reasonable for Halifax to waive the interest and charges they applied to Mr S's account from October 2016 onwards, which is what Halifax would have done on receipt of Mr S's income and expenditure form.

I also think it's fair and reasonable for Halifax to work on the basis that they would have closed Mr S's account in January 2017, on the basis that his income and expenditure form showed he wasn't able to repay his overdraft in a reasonable time. Halifax would have

registered a default when they closed Mr S's account. So it follows that I also think it's fair and reasonable for Halifax to backdate the default they registered against Mr S's account to January 2017.

Halifax has accepted that they didn't handle Mr S's financial difficulties as well as it should have done, given that it didn't respond to the form he sent in. I accept that the way Mr S found out his account had been closed must have been a shock, and that the way Halifax handled his case has caused him distress.

So, in addition to putting Mr S back in the position he would've been in, had they received his income and expenditure form, I think Halifax should recognise the distress and inconvenience experienced by Mr S. I can appreciate what a shock it must've been for Mr S to discover his account had been closed and passed to a debt collection agency – particularly when he was under the impression that Halifax were considering his repayment options, having returned his completed income and expenditure form to them. And I can understand why Mr S was frustrated at not being able to borrow more money to help him. Halifax have offered £250 in compensation for the distress inconvenience experienced by Mr S. Mr S has clearly been through a difficult time recently and this has had an impact on his health. But I don't think it would be fair to say that Halifax was responsible for all of the problems he's had to deal with. Instead it's fair to say that Halifax added to his difficulties – the shock at discovering his account had been closed and the stress of a debt collection agency getting involved. I think the offer of £250 that Halifax has made is fair and reasonable compensation for the distress and inconvenience he's experienced.

my final decision

My final decision is that the offer Bank of Scotland plc has made is fair and reasonable. I'm therefore going to require Bank of Scotland plc to pay Mr S £250 in compensation and refund £142's worth of charges and interest, if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 7 December 2019

Rebecca Kemp
ombudsman