

## **complaint**

Mr R complains that Bank of Scotland plc trading as Halifax incorrectly applied a default on his credit file. He would like this default removed and compensation for the time and effort taken in raising this complaint.

## **background**

Mr R fell into financial difficulties so, in September 2017, he contacted a debt charity to make arrangements to pay off his debts.

The debt charity contacted Halifax with a repayment plan for Mr R's overdraft on his current account. Mr R started making these payments through the debt charity. He made regular payments and didn't miss any. He assumed all was well.

But, in August 2018, Mr R found that a default had been applied on his credit file on 13 February 2018. He said he wasn't aware that Halifax were planning on applying a default and says that he would've made different arrangements for paying off his debt if he had been aware of this so as to avoid a default being applied on his credit file.

Mr R contacted Halifax to find out why the default had been applied.

Halifax said they first received contact from the debt charity on 9 October 2017 offering repayment for the overdraft on Mr R's current account. Because of the offer and the size of the debt, Halifax moved the account to recoveries resulting in it being closed and a default being applied to the credit file. Halifax said they wrote to Mr R on 6 December 2017 to tell him that the account would be closed and a default applied if the full amount wasn't paid within 60 days. They received no contact and the overdraft wasn't repaid so the default was applied on 13 February 2018. They felt that they had done nothing wrong in applying the default.

Mr R wasn't happy with this so he came to us.

Our investigator found that Halifax hadn't done anything wrong. He looked at Halifax's business file and found that a letter had been sent to Mr R on 6 December 2017. He noted that it had gone to the right address and that it did inform Mr R that his account would be closed and a default applied for if he didn't clear his overdraft within 60 days.

Halifax told our investigator that they had seen the offer from the debt charity. They said that, generally, when they deal with a customer with financial difficulties, they will ask them to complete an income and expenditure sheet to work out how much they can afford to pay off the debt. When they get something from this debt charity, they assume that an assessment of income and expenditure has already been done and the amount being offered is the most that the customer can afford to pay.

After receiving the repayment offer for Mr R, they realised it would take him more than two years to pay off the debt. They thought the best way of helping him was to close the account and stop all charges. When they close an account, they then move it to recoveries. This is what they had done. The next step was to inform Mr R of the account being closed and a potential default being applied for if the debt wasn't repaid within 60 days. They did this in their letter of 6 December 2017.

Halifax referred to the terms and conditions of the current account and pointed out paragraph 10.1, which states:

*“An overdraft is repayable ‘on demand’. This means we can ask you to repay it (or part of it), or reduce the limit, at any time. Usually this will be due to a change or expected change in your personal circumstances. We will give you at least 30 days’ notice unless we need to take action sooner to protect our interests or for regulatory reasons.”*

Halifax say that they didn’t accept the offer from the debt charity. Mr R also says that the debt charity told him that his repayment plan wasn’t accepted, nor rejected, by Halifax.

Our investigator thought that Halifax had been fair and reasonable in their dealings with Mr R.

Mr R wasn’t happy with this outcome so the complaint has now come to me.

### **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’m afraid Mr R won’t be happy with my decision. I too find that that Halifax hasn’t done anything wrong. I will explain why.

The terms and conditions of Mr R’s current account clearly state that Halifax can ask for an overdraft to be repaid on demand. This is standard with most banks. I think that they were acting fairly and reasonably in closing the account and asking for the overdraft to be repaid within 60 days. I also note that they thought this also helped Mr R as no further charges or interest would then be applied to the account.

Mr R says that he didn’t get the letter saying Halifax were going to close the account and asking for repayment of the overdraft. I have also seen the Halifax’s file and find that they did send a letter on 6 December 2017. I don’t think that they were obliged to do anything more.

I note that Mr R says that they should have written again. But, considering that he had help from the debt charity, I think Halifax were entitled to find that they assumed the debt charity would tell Mr R of the potential default being applied for.

I have looked on the website of the debt charity and, in the section on debt management plans, they clearly state that the creditors might apply for a default which will stay on the credit file for six years.

I have read through Mr R’s response to our investigator’s view. I’m afraid that I don’t agree with the points raised in it by Mr R for the reasons given above. In particular:

- Halifax did send a letter notifying Mr R that a default would be applied to his account if he didn’t repay his balance;
- Halifax were entitled to ask for repayment of the overdraft on “demand”;
- Halifax didn’t agree to the repayment plan suggested by the debt charity so any regular payments made under it were simply part of an informal agreement;
- Halifax did try to contact Mr R after the debt charity put forward the debt management plan.

In summary, I don't think that Halifax has done anything wrong so I won't be asking them to do anything further.

**my final decision**

I think that Halifax has behaved fairly and reasonably in applying the default on Mr R's account. So, I don't require them to do anything else.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 24 February 2019.

Rita Parmar  
**ombudsman**