

complaint

Mr and Mrs J have complained that Bank of Scotland plc (trading as Halifax) defaulted their loan account in September 2011, without providing them notice that it was doing so. Mrs J has also complained about the customer service she received in a branch of Halifax in September 2013.

background

Mr and Mrs J were facing financial difficulties and made arrangements with a number of lenders to pay reduced amounts towards their debts. This included Halifax, where Mr and Mrs J had a loan and a credit card account.

In May 2011 Halifax sent Mr and Mrs J a default notice for the loan. Subsequent to that a further arrangement was made, which Mrs J says she adhered to, although Halifax says some payments were missed.

In August 2011 the bank wrote again to Mr and Mrs J accepting another payment arrangement. In September 2011 Halifax defaulted the account. Mr and Mrs J only discovered this in 2013.

Mrs J visited a branch of Halifax to try to sort out the default and has complained about the service she received, saying that the person she spoke to was rude and unhelpful.

The adjudicator recommended that this complaint should be partly upheld. He concluded that Halifax had told Mr and Mrs J in August that they might receive a default notice if they failed to keep to a payment arrangement – but no notice had been sent before the default was registered. He recommended that Halifax remove the default and pay £150 compensation. He said that there was insufficient evidence about whether a staff member had been rude to Mrs J.

The bank has responded to say that it recorded the default correctly and will not remove it or pay compensation for this. It has offered to pay £50 compensation for not responding to Mrs J's complaint within the accepted timescales. Mr and Mrs J say the bank's offer is not enough.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

There are various issues within this complaint. With regard to the default, the crucial point is whether Halifax should have given Mr and Mrs J notice that it was going to default the account before it did so in September 2011. I am satisfied that it should have. I say this because Halifax wrote to Mr and Mrs J only a month earlier accepting a payment plan. In that letter it said:

“This arrangement must be strictly adhered to. Failure to do so may result in further recovery action or a Default Notice being issued.....”

The bank says that as it had already issued a default notice in May it did not need to issue another. I am not persuaded by this. The August letter clearly implies that a breach of the arrangement would lead to a notice being issued, and this did not happen between that date

and the default being registered. That, I find, deprived Mr and Mrs J of any chance to address the position. A fair response to this is for Halifax to remove the default and pay the compensation recommended by the adjudicator.

Whether Mr and Mrs J could have cleared the arrears is not known – and it may be that they could not have, as these increased over subsequent months. That will often be the position where an arrangement to pay a reduced amount has been agreed. And I see that the bank has now passed the account over to a collections agency for management, as it is entitled to do. Mr and Mrs J have been in contact with the agency and I would urge them to continue with this co-operation. If they are still in financial difficulties then the agency is obliged to respond positively and sympathetically. Mr and Mrs J should be aware that collections activity might result in a default being registered now for the same debt. That will remain on their record for six years from the date of registration, which would affect their record for longer than the current default. Mr and Mrs J may wish to take some advice about this from a debt management charity or the Citizen's Advice Bureau.

I agree with the adjudicator that there is insufficient evidence to uphold a complaint about poor service when Mrs J visited the bank. The two versions of the meeting we have been given are contradictory, and so I cannot safely say that the bank was in error.

my final decision

My decision is that I uphold this complaint in part. In full and final settlement, I order Bank of Scotland plc (trading as Halifax) to remove the default from Mr and Mrs J's record if they so wish and pay £150 compensation for the distress and inconvenience it has caused. Bank of Scotland has also offered to pay £50 for not responding to a complaint within agreed timescales and it should also pay this amount to Mr and Mrs J.

Susan Peters
ombudsman