

complaint

Mr B complains that Bank of Scotland plc (trading as Halifax) will not remove a default registration that it made on his credit file.

background

Mr B had a current account with Halifax, with an overdrawn balance. Mr B had not actively used the account since 2007, but made nominal payments into it to keep it from exceeding the overdraft limit. In 2009, Halifax removed the overdraft facility.

Halifax says it issued a default notice to Mr B in August 2010 before registering the default. Mr B says he did not receive a default notice, and only discovered the default when he recently examined his credit file. He repaid the debt in 2014, and says he would have taken steps to avoid the default registration if he had known about it at the time.

Halifax says its records demonstrate that the default notice was properly sent to Mr B's usual address in 2010, and is not willing to remove the default registration.

As the problem was not settled, Mr B brought his complaint to this service where it was investigated by an adjudicator. From the evidence, the adjudicator considered that Halifax had given Mr B a reasonable length of time to repay the debt, before registering the default. The adjudicator also thought it more likely than not that Halifax had sent out the default notice correctly to Mr B, even if he had not received it. Overall, the adjudicator did not consider that Mr B's complaint should succeed.

Mr B did not agree with the adjudicator and said, in summary:

- Whilst Halifax may have been entitled to register a default, he did not receive the default notification and so the registration should be removed.
- It also seems unfair that there should have been a default registered at a time when he believed he was meeting all repayments required under his debt repayment plan.

my findings

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

The events complained about by Mr B took place a number of years ago, which means that both Mr B and Halifax have limited information and evidence to support their respective cases. It is clear that Mr B began to pay £10 a month towards his debt from July 2009. Halifax stopped applying any interest or charges to the account, and did not press Mr B for a higher payment at that time. The monthly repayment did not increase to £15 until January 2011, some months after the default had already been registered – and Mr B eventually cleared the remaining debt by making a lump sum payment in 2014.

Halifax says that the £10 monthly repayments did not prevent the account being in default but that it did not register the default until August 2010 in order to give Mr B a reasonable chance to pay the debt off. I consider that the available evidence tends to support that.

I appreciate that Mr B feels it is unfair for Halifax to regard the account as in default, when he was making small monthly payments. But the account was by then overdrawn without an overdraft facility and the amounts Mr B was paying would not – on their own – repay that debt within a realistic period of time.

Halifax has provided evidence from its systems that the default notification was sent out to Mr B at his normal address, where he has confirmed he lived at the time. Mr B says he does not recall receiving the notification, and cannot find it in his papers. I find on a balance of probabilities that Halifax sent the default notification to Mr B, even if he did not receive it.

Overall, I find that Halifax was entitled to register the default and is not obliged to remove it.

Given the financial difficulties that Mr B says he was experiencing at the time, it is also difficult to see that he would have been in a position to pay off the debt and avoid the default registration, even if he had acted on the default notification.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr B to accept or reject my decision before 16 February 2015.

Jane Hingston
ombudsman