

complaint

Mr F complains that Bank of Scotland plc (trading as Halifax) has transferred his debt to agents to manage.

background

Mr F told us that his circumstances changed suddenly a few years ago. He agreed a repayment plan with Halifax to pay back some money he owed on a credit card account. He has been paying the agreed amount ever since.

Halifax's Recoveries team wrote to Mr F in January 2017 to say that it would like to review his repayment plan. He rang the bank, and was told his debt was being transferred to outside agents to manage. Mr F then received a letter confirming this change.

Mr F was very angry about the change. He said those debt management agents dealt with people who had defaulted on their accounts, and he hadn't. He thought he had a contract with Halifax for his repayments, and he didn't think Halifax could just change it. When he asked about the change, Halifax's own Fraud department thought it could be a scam.

Halifax wrote a complaint response letter to Mr F in late February. It said that it hadn't done anything wrong in passing Mr F's debt to agents to look after. That was allowed under the terms and conditions of his account. It said that details of his repayment plan had been passed to the agents. But it didn't think it had dealt with this matter very well, so it offered Mr F £75 in compensation to say sorry.

Mr F replied in March that he wanted to see the terms and conditions Halifax was referring to. He wanted to know when the Recoveries team was established, why the Fraud team that he spoke to hadn't heard of the Recoveries team, and why the Recoveries team would be looking after his account, if that team was supposed to look after accounts in default. He said again that he had never defaulted.

Halifax sent a second complaint response letter in March. That letter quoted the section of his terms and conditions that allows Halifax to ask agents to manage Mr F's debt. And Halifax sent him the full terms and conditions for his account.

Halifax said it hadn't sold the debt. It had just asked agents to manage it on a day to day basis. It still didn't think that it had done anything wrong when it did that. But it thought it had given Mr F poor customer service. When he first contacted the Fraud department, it ought to have been able to tell him about the Recoveries team. That team had been looking after Mr F's account since it defaulted in December 2012.

Halifax's letter said Mr F did have a repayment amount agreed of £60 per month. And Halifax made a revised offer of £100 for poor service.

After this second complaint response letter, the debt management agents wrote to Mr F in May. They asked again for income and expenditure details. And they said there wasn't a repayment arrangement on the account. At this point Mr F said he wanted to complain to our service.

Halifax sent a third complaint response letter in June. It hadn't been able to find a signed copy of Mr F's original credit card agreement, but it didn't think that meant that there hadn't been one. Halifax offered Mr F £125 in compensation. Mr F brought his complaint to us.

Our investigator didn't uphold this complaint. He said that it wasn't unusual for Halifax not to have the original agreement which Mr F signed when he first took out the card. Businesses don't have to keep information indefinitely. He thought that Halifax was entitled to ask debt management agents to act for it under the terms of the account. He thought Halifax had complied with the requirements of the Lending Code in dealing with Mr F. It had behaved positively and sympathetically towards him, and it was allowed under the Code to ask a third party to manage the debt. Those debt management agents want Mr F to put together income and expenditure details. Our investigator said this is something we would expect a business to do if a customer is in financial hardship.

Our investigator said that Mr F had complained he didn't want an organisation which deals with defaulted accounts looking after his repayments, but his account had defaulted some years ago. Our investigator didn't think it was unfair for Halifax to pass the day to day management of this debt to the agents.

Our investigator said that Mr F had pointed out inconsistencies in what Halifax had said to him. And Mr F thought he should be compensated for the time he had spent bringing this complaint. But our investigator thought Halifax had made Mr F a fair offer of £125 to compensate him for the poor customer service he had received. Our investigator didn't think Halifax had to do any more than that.

Mr F didn't agree with that. He thought that following up a letter asking for a reassessment of a repayment plan with a letter saying that the debt was now being managed outside the bank was more than just poor customer service. He said that Halifax had repeatedly told him he did have a repayment plan, but the debt management agents told him he didn't. He still didn't think Halifax should've referred him to those agents. He thought his regular payments to Halifax meant that he had a contract established by custom, and Halifax couldn't break that now by passing his debt on to someone else to manage. And he set out some examples of what he said was good customer service.

Our investigator replied that Halifax accepted that it had provided Mr F with poor service. It had addressed his concerns about this, and offered £125 in compensation. Our investigator still thought that was enough to make up for what had happened in this case. And he still thought that Halifax had behaved in line with the terms and conditions of Mr F's account when it asked agents to manage his debt. He didn't think that was unfair or unreasonable.

Mr F replied that he still thought that there was a contract between him and Halifax, and Halifax was breaching it. Because he didn't agree with our investigator, the case was passed to me for a final decision.

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've reached the same conclusion as our investigator on this case.

Mr F has been paying off his debt steadily at an amount of £60 per month for some years. In early 2016 Mr F was asked for income and expenditure details, so that his repayment plan

could be renewed. Mr F supplied those details, and his plan was renewed at the pre-existing amount.

Early in 2017 Halifax contacted Mr F again to take new income and expenditure details, to renew his plan. Then it wrote again to say that it was passing his debt to outside agents to manage. I think it was poor customer service for Halifax to send these two letters so close together. And when Mr F enquired about this, he was given unhelpful information by the Fraud team that this might be a scam.

Mr F also seems to have been given conflicting information by Halifax, who told him he had a repayment plan in place, and by its agents, who said he needed to supply revised income and expenditure details. I think this is also poor customer service. But I think that Mr F had previously been asked for this information by Halifax, so I don't think it's unreasonable for its agents to ask for the same information.

I think that the amount of £125 that Halifax has offered Mr F to make up for this poor customer service is a fair offer. That's in line with what I would've awarded in this case if an offer hadn't already been made.

But Mr F doesn't think his debt should've been passed to agents at all. He says that he has a contract by custom with Halifax. Mr F seems to be saying that because he's been paying regularly, Halifax is obliged to keep accepting that money, and it can't ask someone else to look after the debt for it. I don't agree with that. I'll explain why not.

I think that when Mr F signed up for his credit card, he agreed then to a set of terms and conditions that said that Halifax could ask someone else to manage the debt if it wanted to. I know that Halifax hasn't been able to show us the actual document that Mr F signed when he took out this card. But I don't think that's unusual, because he took the card out some years ago, and banks don't keep records like that indefinitely.

Halifax has shown us and Mr F a copy of the terms and conditions, as they were when Mr F opened his account. I think that those are the terms and conditions that Mr F agreed to when he took out this account. And I don't think that just because Halifax has been accepting regular payments from Mr F since his account defaulted, means that Halifax has lost the right to act in line with those terms and conditions and get someone else to manage Mr F's debt. I don't think that any contract by custom has been established that stops Halifax from doing that. And I don't think it's an unfair or unreasonable thing for Halifax to do.

Halifax had already offered Mr F £125 before he brought his complaint to us, and I've explained I think that's a fair offer. I know Mr F will be disappointed by this, but I don't think Halifax has to do more than that.

I understand this offer is still open to Mr F. So I won't uphold his complaint. I leave it to Mr F whether he wants to accept that offer from Halifax.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 23 February 2018.

Esther Absalom-Gough
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