

complaint

Mr A's complaint's about how Bank of Scotland plc (trading as Halifax) ("Halifax") treated him when pursuing him for an outstanding debt.

background

Mr A says he started to experience financial difficulty in 2009 when he lost his job. At that time he had an outstanding debt with Halifax for roughly £5,000. He's said he made Halifax aware that he was experiencing financial difficulties, and continued to use his account until May 2011. The last charge that was applied to it was in July 2011.

In September 2011 Mr A went to prison so the account was passed to Halifax's customer priority team. It was formally closed in January 2012 with an outstanding balance of £5,115.00. Between February and June 2014 Halifax passed the debt to three different debt recovery agents. All three were pursuing Mr A for the debt and acting on behalf of Halifax.

Halifax then sold the debt to a third party and it became the legal owner of the account in July 2015. At that time the total amount outstanding was £4,942.09. Mr A then told it about his circumstances and it agreed not to pursue him for the remaining balance, and closed the account.

Mr A says Halifax had been harassing him for the outstanding balance even after he'd made it aware of his mental health issues. He also feels that because it had been made aware of his medical history it shouldn't have gone on to sell the debt to a third party.

An investigator at our service looked into the complaint but didn't think Halifax needed to do anything further to resolve it. She said we couldn't look at complaints brought to our service more than six years after the event occurred or within three years from when Mr A had become reasonably aware of the event. So she explained that she couldn't look at the charges that had been applied to the account before December 2010, as the business hadn't given us consent to do so.

Mr A confirmed that he understood this point and that his main complaint was about Halifax pursuing him for the debt when it was aware he had mental health issues.

The investigator said Mr A and his GP had made his creditors aware of his health issues. But she couldn't see any correspondence that was directly addressed to Halifax. So she thought it was likely Halifax was unaware of Mr A's circumstances. And therefore hadn't acted unreasonably by passing the account to debt recovery agencies or selling a debt to a third party.

Mr A didn't agree with the investigator's opinion and asked for the case to be passed to an ombudsman to look at everything afresh.

Having reviewed the file, I disagreed with our adjudicator, and felt that compensation was necessary. I discussed this with Halifax who offered £350. I put the offer to Mr A, but he didn't accept it and asked 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.

the charges

Mr A's accepted that we can't look at the charges applied to his account before December 2010. So my decision relates to the charges applied from January 2011 to when the account was closed in January 2012.

Mr A says he told Halifax he was facing a possible prison sentence in June 2011. After reviewing the contact notes I can't see any evidence to say that it was aware he was experiencing financial difficulty before this point. If Mr A had made Halifax aware of this, I think it's likely that it would be reflected in the contact notes.

Because of the time that's passed I can't be certain what Mr A's agreed overdraft was in 2011. But the evidence suggests it was around £4,950. Having reviewed Mr A's statements, it appears he was operating within the agreed overdraft limit until May 2011. And during this period planned overdraft charges were applied. This was because he was using the account and benefitting from having an overdraft facility in place, which I think is reasonable.

Then, in June and July 2011 unplanned overdraft charges were applied to his account. This is because he'd exceeded his agreed limit at the end of May 2011 and didn't bring the account back within it. Again, I think the charges applied for this were reasonable as Mr A had the benefit of using an unauthorised overdraft facility. And there's no suggestion they were applied in error. No further charges were applied to his account prior to him going to prison in September 2011. His account was closed in July 2012, at which time it had an outstanding balance of £5,115.

Overall, for the reasons I've given, I'm satisfied the charges applied to Mr A's account were reasonable.

debt collection

Between February and June 2014 Mr A's debt was passed to three different debt recovery agencies who all pursued him for repayment.

Mr A's provided evidence to show that he and his GP had made his creditors aware of his mental health issues. But Halifax has said it didn't receive these letters. That may be the case, but I think it's likely Mr A did send them. I say this because on more than one occasion, his GP had written to his creditors and Mr A had completed two debt and mental health evidence forms. I can also see that one of the letters was directly addressed to the debt recovery agency that was pursuing Mr A for the debt at that time. As Halifax still owned the debt, and the debt recovery agencies was acting on its behalf, I don't think it's fair to say that Halifax wouldn't have been made aware of Mr A's circumstances. And if the debt management agency hadn't made Halifax aware of them, I don't think Mr A should be held responsible for that. He'd acted reasonably by informing his creditors.

So, due to Mr A's circumstances, I don't think Halifax should have continued to pass the debt to the debt recovery agencies, or to have sold it on. But because it was sold, he's no longer being pursued for it, and we've been told the account's now closed. So, Mr A's actually benefitted from Halifax's error.

However, having said this, I do accept that the correspondence from the debt agencies pursuing the debt would've caused him a lot of distress, at what was already a difficult time. But I still feel in all the circumstances I've talked about, that the offer of £350 Halifax has made is fair and reasonable, and sufficient to resolve the complaint.

my final decision

My final decision is that the offer of £350 compensation is fair. I won't be asking Bank of Scotland plc (trading as Halifax) to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 3 April 2017.

Jade Rowe
ombudsman