

complaint

Mr and Mrs L complain that Bank of Scotland Plc (trading as Halifax) did not cancel a standing order as requested in October 2002.

background

Mr and Mrs L had been paying £5.42 each month by standing order. In October 2002, they instructed Halifax to cancel the standing order and to set up a direct debit. The direct debit was set up but the standing order was not cancelled. As a result they have been making unintended payments of £5.42 each month from 2002 until they noticed that the standing order was still active and cancelled it in December 2011. They complained to Halifax which paid them £50 compensation but they were not satisfied by its response so complained to this service.

The adjudicator did not recommend that this complaint should be upheld. She concluded that there was no evidence to show how the request to set up the direct debit and cancel the standing order was communicated to Halifax and that there was no evidence that Halifax had made an error in the circumstances.

Mr and Mrs L say, amongst other things, that Halifax admitted that it had made an error and that the adjudicator had not properly considered the 'conversion from standing order to direct debit' form that they had submitted with their complaint.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr and Mrs L and to Halifax on 12 April 2013. In my provisional decision I said the following:

"Halifax said in a letter to Mr and Mrs L in July 2012 that "...with regards to the information provided with your complaint I do acknowledge that it was our error that we did not cancel your standing order in 2003." Halifax paid £50 to Mr and Mrs L in July 2012 to compensate them for the distress and inconvenience that they had been caused.

Mr and Mrs L have produced a copy of the form that they signed in October 2002. They had been paying £5.42 each month by standing order. The form clearly instructed Halifax to cancel that standing order but it did not do so. The form also instructed Halifax to set up a monthly direct debit. The direct debit was set up as instructed and the first payment of £5.42 was made in January 2003. I therefore consider it to be more likely than not that Halifax did receive the form but that it did not cancel the standing order as instructed.

The standing order continued to be deducted from Mr and Mrs L's account until December 2011 when they noticed that it was still active and cancelled it. Whilst I am satisfied that Halifax failed to cancel their standing order, I consider that Mr and Mrs L had a responsibility to monitor their account. The standing order was paid from their account each month for more than nine years without them noticing. They have provided an explanation as to why they did not notice but they were receiving monthly

statements which correctly showed the payment and I consider that they should have noticed it within a maximum of twelve months.

Halifax has already paid £50 compensation to Mr and Mrs L for the distress and inconvenience that they have been caused but I consider that it should also refund to them the standing order that was incorrectly paid from their account, but only for a period of twelve months. That totals £65.04 and I consider a refund of £65.04, in addition to the £50 compensation already paid, to be fair and reasonable in these circumstances."

Subject to any further representations by Mr and Mrs L or Halifax, my provisional decision was to uphold this complaint in part and to order Halifax to refund £65.04 to Mr and Mrs L.

my findings

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

Halifax says that it is happy to agree with my provisional decision.

Mr and Mrs L say that they are concerned that they have lost out financially because Halifax made an error. They say that they did not realise that Halifax had made a mistake and that they should be able to have some trust in the banking system.

Having considered Mr and Mrs L's further representations, I am not persuaded to change my provisional decision.

my decision

My final decision is therefore that I uphold this complaint in part. In full and final settlement of it I order Bank of Scotland plc, trading as Halifax, to refund £65.04 to Mr and Mrs L.

Jarrold Hastings
ombudsman