

complaint

Mr and Mrs R have complained that Bank of Scotland plc, trading as Halifax, applied a default to their credit file about an outstanding balance. They weren't aware of this and would like the bank to remove the defaults.

background

Mr and Mrs R had disputed a £10,000 overdraft on an account with Halifax in 2014. Mr and Mrs R asked Halifax to show how this debt was owed by them. Halifax failed to provide them the information they requested and the account remained in default. Mr and Mrs R didn't believe they'd ever got any default notice.

Mr and Mrs R raised a complaint with Halifax. Halifax explained how the debt occurred. They'd had to repay companies who'd shown they held valid instructions from Mr and Mrs R to collect direct debit payments. The debt remains unpaid. Mr and Mrs R want Halifax to remove the defaults on their credit file as they've only just received the information about the debt. Mr and Mrs R feel that the defaults should only be registered after Halifax provided the information on the debt to them.

The adjudicator reviewed all the evidence. The adjudicator reviewed the actions Halifax had taken to resolve the complaint and considered these to be fair and reasonable.

Halifax accepted there had been delays and that the information requested should have been provided sooner. As a gesture of goodwill they offered Mr and Mrs R the option to pay the balance off in full within 60 days and it would remove the default markers. Halifax has also paid Mr and Mrs R £250 for the inconvenience caused.

Mr and Mrs R do not accept this resolution and would like the default to be removed from their credit files.

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 agree with the adjudicator's view and don't think Halifax need to do any more.

were Mr and Mrs R aware of the debt?

The debt has arisen as a result of Mr and Mrs R raising queries about direct debit payments that were refunded to their account. These funds were then transferred out to another account by Mr and Mrs R.

It is clear that Mr and Mrs R were aware of the overdraft debt as they discussed this with Halifax's collections teams. The adjudicator reviewed the call between Halifax and Mr R on 8 July 2014 and there are no points of dispute that arise so I will not consider this any further. Both parties agreed an arrangement to repay the balance but I can't see any payments were then made. Halifax sent a formal demand for repayment of the debt on 21 August 2014 detailing the next steps it would take including closing the account and registering a default. I am satisfied that Mr and Mrs R had knowledge of the overdraft debt.

Mr and Mrs R did request detailed information from Halifax which wasn't given. Halifax have accepted that delays occurred and as a gesture of goodwill have made an offer to remove the default on the account if the balance is paid in full within 60 days. I understand that Mr and Mrs R may not be in a position to make the payment in full but an alternative payment plan can also be arranged with Halifax. Halifax has also paid Mr and Mrs R £250 for the delays in dealing with their request for information which I feel is reasonable.

Mr and Mrs R were sent closure letters when the account was closed on 5 September 2014. This was after numerous conversations and attempts to arrange repayment of the overdraft. The defaults were added to Mr and Mrs R's credit file at this stage. Again I think that was reasonable and reflected the status of the debt.

removal of defaults from the credit file

The credit file is a reflection of the accounts and if the account is in arrears then Halifax can apply a default as long as notice is given. Halifax sent Mr and Mrs R an enforcement letter on 4 July 2014 and a final demand letter on 21 August 2014. These were before the default was registered against the credit file in September 2014. It would be wrong to expect Halifax to remove the default as it would no longer be presenting accurate information. I appreciate this is especially difficult as it is impacting Mr and Mrs R's ability to get a mortgage.

For the reasons above I am satisfied that Halifax have correctly added a default to the credit file of Mr and Mrs R.

my final decision

For the reasons outlined above I have decided not to uphold Mr and Mrs R's complaint and will not be asking Bank of Scotland, trading as Halifax to do anything else.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs R to accept or reject my decision before 21 March 2018.

Naima Abdul-Rasool
ombudsman