

complaint

Mr P complains that Bank of Scotland plc, trading as Halifax, won't reimburse him for the higher fees and interest that he had to pay for a mortgage because of the default that it had recorded on his account.

background

Mr P had a credit card account with Halifax that was in arrears. It defaulted the account in April 2014 and registered the default with the credit reference agencies. Mr P applied for a buy-to-let mortgage – but his chosen lender would only lend to him if no defaults had been recorded in the last twelve months. So Mr P says that he had to take out a secured loan and that he had to pay an arrangement fee of £4,900 and an interest rate of 11.25 % – which were both higher than they would've been if he hadn't had the defaults. He was advised that the Halifax default should've been recorded years earlier than it was – so he complained to Halifax.

It said in February 2015 that it could see that Mr P had been finding it difficult to maintain regular payments to his account and it was taking payments from his bank account which delayed the account from defaulting. So it back-dated the default to April 2012 (as that would've been when the account would've defaulted if the payments weren't being taken from his account) and it refunded interest of £4,714.90, returned direct debit charges of £36, over-limit charges of £156 and late payment charges of £312. And it paid him a further £100 compensation.

Mr P then successfully re-applied for the buy-to-let mortgage and used it to clear his outstanding debts and the balance of the secured loan. And he says that the successful application shows that it was Halifax's default that stopped him from getting a buy-to-let mortgage when he first applied for it. And he feels that Halifax has admitted to registering the default incorrectly so it should reimburse him for the arrangement fee, the redemption penalty and the difference between the interest rate of the buy-to-let mortgage (4.18%) and the secured loan (11.25%).

He complained to Halifax in October 2018. It said that it had amended the default based upon processes in place in 2015 and not those in place when Mr P's account was originally in collections. And it said that the refund and the amendment were made as a goodwill gesture and in no way constituted an admission of error and that no reimbursement of charges or interest would be made. Mr P wasn't satisfied with its response so complained to this service.

The investigator didn't recommend that this complaint should be upheld. Halifax had explained that prior to 2015 a customer's account could stay in collections indefinitely but this changed in 2015 when the decision was taken not to allow a customer's account to stay in collections for longer than a year. But he said that this doesn't mean that the action taken prior to this was incorrect – merely that a new standard was applied. So he didn't think that it would be reasonable for Halifax to reimburse Mr P for the cost of the secured loan.

Mr P has asked for his complaint to be considered by an ombudsman.

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'm only considering the complaint that Mr P made to Halifax in October 2018 that it wouldn't reimburse him for the charges and interest that he's incurred on the secured loan. I'm not considering his complaint about the default.

Halifax agreed in February 2015 to back-date the default to April 2012 because that's when the account would've been defaulted if it hadn't been taking the payments from Mr P's bank account. And it refunded £4,714.90 of interest and £504 of charges and paid him £100 compensation.

But that was only done because Halifax had changed its processes and chose to look at the default on the basis of its new processes and not the processes that were in place in April 2012. And it says that the refund and the amendment were made as a goodwill gesture and in no way constituted an admission of error.

Mr P's first application for a buy-to-let mortgage wasn't successful so he took out a secured loan and agreed to pay the arrangement fee of £4,900 and an interest rate of 11.25%. That was his decision at that time. He's since benefitted from Halifax's decision to back-date his default and to refund interest and charges and to pay him compensation. But Halifax wouldn't have defaulted the account in April 2012 as its policy at that time wasn't to default accounts in Mr P's circumstances. And I'm not persuaded that it would now be fair or reasonable for me to require Halifax to reimburse Mr P for the arrangement fee and interest that he's paid on the secured loan.

I'm not persuaded that Halifax has responded to Mr P's complaint unfairly or unreasonably. And I find that it wouldn't be fair or reasonable for me to require it to make any further payments to Mr P or to take any other action in response to his complaint.

my final decision

For these reasons, my decision is that I don't uphold Mr P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 3 April 2020.

Jarrold Hastings
ombudsman