

complaint

Mrs S has complained to us about the way Bank of Scotland plc ('BoS') have handled the joint account she holds with her husband, Mr S, after he went into an Individual Voluntary Arrangement ('IVA').

background

Mr and Mrs S had a joint bank account with BoS with an overdraft. Mr S went into an IVA, but excluded their joint account from it, to avoid any adverse effect on Mrs S's credit file. Mr and Mrs S had agreed that Mrs S would take over responsibility for paying off the overdraft, by continuing to make a monthly payment towards the outstanding balance of. They didn't make the bank aware of this.

BoS says that it removed Mr S from the account and closed it once it became aware of Mr S's IVA. It says this was a usual part of its process. But it registered the default before it told Mrs S about it or gave her the opportunity to pay the outstanding balance. It says it needed to take this action to protect its position about recovering the debt.

Mrs S says the bank has acted unfairly by closing the account without first giving her the opportunity to pay off the balance. If she'd known that BoS was going to close the account she'd have asked family and friends to help her clear the balance. She says that she'll clear the overdraft if BoS agrees to remove the default it's placed on the account. She feels that she's been 'blacklisted' by BoS for credit purposes through no fault of her own.

Our adjudicator thought that BoS could have done things better by giving Mrs S the chance to repay the amount owing on the account, or discuss a repayment plan, before closing it. But she didn't think BoS was wrong to register a default on the account. So she recommended that BoS pay Mrs S £150 as compensation for not giving her the opportunity to repay the balance or agree to a repayment plan first.

Mrs S disagrees with our adjudicator that the bank doesn't need to remove the default. So her complaint has been 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'm not going to uphold Mrs S's complaint and I'll explain why.

BoS's decision to close the joint account after it found out that Mrs S's husband had entered into an IVA is understandable. It removed the overdraft facility and froze all interest and charges on the account once passed to collections. Mrs S has been asked to pay off the balance, as she's jointly and severally liable for it.

I appreciate that Mrs S would've preferred her account to remain in branch control so that she could pay it off. However, as the bank would've continued to add interest and charges to the account, Mrs S's balance would've increased.

I can understand Mrs S's frustration that the bank's default registration has meant that she couldn't get a loan to pay off the balance - as she previously had an excellent credit history.

But there's no way to guarantee that Mrs S would've been able to borrow over enough money from family and friends or perhaps another lender to clear the full balance, if given the opportunity.

I think BoS could've done things better by giving Mrs S better advance notice before closing the account and applying a default. I would've expected the bank to contact Mrs S to discuss her financial situation and arrange an affordable repayment plan with her, if necessary. It would then be understandable for BoS to register a default on Mrs S's credit file, if the arrangement failed.

I've seen that BoS has also said that it's willing to remove the default on the account if Mrs S fully repays the balance.

But I think BoS ought to compensate Mrs S for not giving her the opportunity to try to pay off the overdraft before it closed the account and placed a default on it. I think £250 better reflects the trouble and upset that I understand the bank's action has caused Mrs S than the £150 it's already offered.

I agree with the adjudicator that BoS didn't do anything wrong in registering a default against the account, having learned that Mr S was in an IVA. The entries on a credit file are a true reflection of how the account has been managed and the bank has to record this information accurately. So I wouldn't ask it to remove the default from her credit file.

Overall, I find that BoS has acted fairly and reasonably, but I think it's right that it pays Mrs S £250 for the trouble and upset it's caused her.

my final decision

I think that Bank of Scotland plc should pay Mrs S £250 for the trouble and upset it's caused her, but I don't think it needs to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 7 December 2015.

Michael Goldberg
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