

## **complaint**

Mr J complained Bank of Scotland plc, trading as Halifax, hasn't treated him fairly or considered the impact on him of them asking him to repay an outstanding debt.

## **background**

In 2011 Halifax wrote off Mr J's two personal loans and credit card debt. They had been told Mr J was suffering from mental illness and had attempted suicide.

Mr J brought a complaint to the ombudsman service in 2013. Halifax refunded all overdraft fees they'd applied from 2010 onwards. This worked out at £1,498. This money was refunded straightaway. After checking, Mr J transferred this money to another account. He thought his old account would be closed although he still used it for a few months.

In 2014 Halifax passed Mr J's account to a debt collection company who wanted him to pay £3,824.73. Mr J complained to them. He felt he'd not been treated fairly. He was upset Halifax hadn't kept his debt in-house or followed guidance about treating customers with mental illness. Halifax didn't think they'd done anything wrong. Mr J brought his complaint to the ombudsman service.

Our adjudicator didn't think it was fair to ask Halifax to write off Mr J's debt. Mr J asked an ombudsman to consider his complaint.

## **my findings**

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

In 2013 our adjudicator felt it was fair for Mr J to meet the terms and conditions applied to his Halifax account. I can't review that case. Mr J knows he accepted the outcome in full and final settlement.

But I can review what happened afterwards and whether Halifax treated him fairly. I've spoken to Mr J. I believe he thought the money he received, £1,498, was a payment to sort out things as opposed to a refund of fees and charges. He transferred this money to another Halifax account and soon after arranged for his benefit payments to go to his other account as well. I note he continued to use his original account and the debt grew. Halifax added fees and charges.

However I've seen no evidence to show whether Mr J was ever going to be able to pay off the overdraft. Nor do I understand why Halifax allowed Mr J's account to go so overdrawn. By the time Halifax sold this debt on it stood at £3,824.73. But in correspondence I've seen Halifax suggests full responsibility for this debt lies with Mr J. I don't agree. I don't dispute, nor does Mr J, that he spent this money but I'm not sure he should ever have been granted the overdraft. I'm also satisfied a fair portion of the overdraft is made up of interest and charges.

When Halifax sold on Mr J's debt, I don't think Halifax took proper notice of his medical condition. Firstly I'm not convinced they'd exhausted all avenues which they should do before selling on a debt. And I've also seen letters they wrote to Mr J. They said they couldn't tailor letters for his specific circumstances nor could they stop sending automated

letters once an account fell into arrears. I know this is true but that's certainly not fair. I don't think either of these statements suggests Mr J was being treated properly or as an individual.

An aspect of Mr J's complaint is that Halifax isn't meeting guidance on how to deal with someone with mental health problems. I believe Halifax was aware of Mr J's medical history. But I don't think they knew how to behave towards him. Mr J is articulate but understandably starts to feel anxious when he is under pressure. Having reviewed the medical evidence, I'm sure his finances are a trigger in making him feel stressed. Rather than putting Mr J through hoops – for example, asking him to contact their vulnerable customers' team – Halifax should have taken the lead. In fact I believe they left it to Mr J to do all the running.

I have spoken to both Halifax and Mr J to resolve this case. I've also given Halifax evidence from Mr J's doctor about the impact letters asking for debt repayment is having on his mental health. His doctor has been very upfront that Mr J feels anxious about his finances after going through a more stable emotional period.

In light of his health – and the knowledge that Mr J has limited ability to repay – I have told Halifax it's fair to write-off Mr J's debt. I believe they should then ensure this debt is shown as settled on Mr J's credit record. As I'm not convinced the overdraft was Mr J's fault, I want Halifax to remove any default data for this record too. I understand this account is now closed.

I have reviewed Mr J's credit record. I know Mr J is upset about what happened when his previous debts were written off in 2011. His credit card debt shows as settled whilst the other two loans are in default with no settled status. I can't be sure whether the loan accounts were in default before Halifax wrote the amounts off but it's possible they were. If so that's a fair reflection of their status. However there is now no outstanding debt so I believe these should show as settled.

I was keen for Halifax to resolve this as soon as possible. And that's why I asked them to find a way to put things right for Mr J. Unfortunately they didn't respond. I've since confirmed I believe their treatment greatly added to Mr J's distress. To the extent Mr J needed further medical attention. In the circumstances I think it's fair and reasonable they pay him £750.

Mr J recently received calls and letters from the company now responsible for this debt. We've asked them, and I believe they've agreed, to stop contacting him for this debt. I hope Halifax now sort this out to minimise Mr J's anxiety.

### **my final decision**

For the reasons I've given, my final decision is to uphold Mr J's complaint. I instruct Bank of Scotland plc, trading as Halifax, to:

- Ensure Mr J has no further liability for the debt of £3,824.73;
- Amend Mr J's credit record to show this debt as settled and remove any default data; and
- Give Mr J £750 for the distress they've caused him.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr J to accept or reject my decision before 4 September 2015.

Sandra Quinn  
**ombudsman**