

## **complaint**

Ms W complains that Bank of Scotland plc (trading as “Halifax”) hasn’t dealt fairly with her in relation to her liability for an outstanding debt on her joint account.

## **background**

Ms W held a joint account with a third party with Halifax. The third party spent on the account and caused it to go into unplanned overdraft, Ms W separated from the third party and asked Halifax to block his access to the account. Halifax did that. Halifax then pursued Ms W for the full outstanding debt on the joint account. Ms W says she would’ve paid half but Halifax hasn’t responded to her requests to do so.

Our adjudicator considered the complaint. He explained that Ms W remained jointly and severally liable for the debt as the account had been taken out in joint names. Ms W says that our adjudicator didn’t properly consider the letters she sent to Halifax and those acting on its behalf. Ms W says that Halifax hasn’t dealt with her fairly because it didn’t reply to her.

The matter has come to me for a final decision. I have asked Halifax to look into the correspondence Ms W says she sent.

## **my findings**

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

It might be worth setting out here that we are not the regulator, we provide an informal dispute resolution service looking at what’s fair and reasonable in each individual complaint. We don’t have any regulatory or disciplinary powers. And when making a decision, we look to see what is most likely to have happened.

Ms W says that Halifax and those acting on its behalf have failed to respond to her letters. She says she has written to them about her liability for this loan and has offered to pay half. Ms W is adamant that Halifax hasn’t dealt with this. She feels they have ignored her.

It’s clear this has been a stressful time for Ms W and I don’t doubt that things have been difficult for her. I’ve asked Halifax to look into this matter again. It’s now completed a search but it and those acting on its behalf have no record of this correspondence from Ms W. I’ve seen letters which Ms W says she sent in 2013 and 2014, they explain about her personal circumstances but make no offer of payment and say Ms W is only prepared to talk to people in the UK. I have not seen any other letters sent on Ms W’s behalf.

I’ve also looked at the notes from the time. Ms W attended a branch in May 2013 and explained that the third party was delaying sending funds to clear the balance. The bank explained they were unable to delay collections activity. In July 2013 a formal demand was sent for the full debt, followed by an enforcement notice in January 2014 and a solicitors’ letter in February 2014 about the debt. The records show that discussions were had about the debt in April and summer 2014 but the bank explained the full amount remained payable, it was for the account holders to agree a split if they wanted to. Nothing further was agreed so the matter was passed to collections in February 2015. Ms W raised a complaint and Halifax sent a final response to her in August 2015. The bank explained again that the whole balance was payable and it would not accept half from one party without agreement for the

whole balance. The matter was then passed to another collections agency, which wrote to Ms W. These letters were all sent to her current address.

On balance, looking at the timeline of events, I'm satisfied Halifax and those acting on its behalf did explain that Ms W was liable for the full amount of the debt. It was clear from 2014 that Halifax would not accept half of the debt and I think it's likely Ms W understood this. So I can't say that Halifax did anything wrong here. Under the terms and conditions for the account, both account holders are jointly and severally liable for the debt. That means Halifax doesn't have to accept half from one account holder. It is entitled to pursue either account holder for *the whole* amount owing.

Ms W says she's still willing to pay her half of the debt. I can see that our adjudicator did ask whether Halifax would be prepared to allow Mrs W to pay half of the debt owing to settle this matter. Halifax is not prepared to accept this, it has decided to continue to pursue the full debt. I appreciate this was not the decision Mrs W had been hoping for but it was a decision the bank was entitled to make. I do understand Ms W's disappointment, but this liability has been created by the actions of third party and not by any wrongdoing by the bank. It remains open to Ms W to reach an agreement with the third party about paying the full debt.

For the reasons I've given, I don't consider it would be fair and reasonable to uphold this complaint.

### **my final decision**

I appreciate that Mrs W will be disappointed, but for the reasons I've given, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 11 April 2016.

Sarah Tozzi  
**ombudsman**