

## **complaint**

Miss S complained because Bank of Scotland plc, trading as Halifax, refused her request for a refund of all charges that had been applied to her account in the previous 12 years.

## **background**

In September 2017, Miss S complained to Halifax about the charges it had made to her account. She said the bank had acted against the Lending Code and Banking Conduct of Business Sourcebook.

Miss S set out her circumstances. She'd had multiple bereavements and caring responsibilities, and was struggling to pay for necessities. She believed that the charges and interest debited from her account since 2005 totalled nearly £7,000. She wanted this refunded, plus interest, making a total of nearly £9,000.

Halifax didn't agree with her complaint. It explained that it could only look at complaints for the last six years, which was how long it kept records. The bank said it would like to help Miss S with her financial difficulties. So it suggested she should visit a local branch, or ring the bank's specialist money management team. As a gesture of goodwill, Halifax refunded £35 of fees and waived another £65.

Halifax also explained that in 2009 the Supreme Court decided that the level of bank fees can't be challenged on the grounds they're not fair. And it said it complied with the Lending Code and Banking Conduct of Business Sourcebook.

Miss S replied that the refunds were insulting. She said that she'd contacted the bank's specialist money management team. But it had suggested freezing further charges, closing her account, and putting the account into default which would stay on her credit record for six years. She said this was totally unfair. Halifax replied that it was sorry she felt its team's options wouldn't help. It gave Miss S the details for some free debt charities.

Miss S wasn't satisfied and complained to this service.

The adjudicator didn't uphold Miss S's complaint. He said he appreciated her concerns, but said that banks don't have to refund charges if they've been applied in line with the terms and conditions of the account. He said he'd expect Halifax to treat a customer who's said they're in financial difficulties positively and sympathetically. But this doesn't mean refunding charges. He sent Miss S our factsheet about the Supreme Court's decision on charges.

The adjudicator noted that Miss S hadn't told Halifax about her difficulties within the last six years. And he felt the bank had tried to assist by asking her to contact its money management team, and refunding and waiving a total of £100 fees.

Miss S replied that she'd contacted Halifax seven and nine years ago, and it hadn't helped. She said that it wasn't treating her fairly to suggest that her account should be defaulted. She believed it was unreasonable for Halifax to punish her in this way because she said she wasn't in this situation because of reckless spending. Following one of the bereavements, she'd been left with two people's debts not just her own.

Miss S said the basis of her complaint was that charges were unsustainable because of financial hardship, and that for the last six years the charges had contributed to her debt.

She told us that her various other creditors had been reasonable and only Halifax was being unhelpful.

### **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's correct that the Supreme Court decision means that this service can't generally help with complaints that charges are unfair or too high. We can help where they haven't been applied correctly in line with the terms and conditions – but that's not the case with Miss S's complaint.

Miss S says that the basis of her complaint is that the charges aren't sustainable because of financial hardship. This service would expect a bank to act positively and sympathetically when a customer tells it of financial difficulties. In the six years before September 2017, Miss S hadn't told Halifax that she was in financial difficulties. As Halifax didn't know, I find it couldn't be expected to have helped Miss S during this period.

I've looked at what Halifax did when Miss S told it about her financial difficulties in September 2017. It suggested she should contact its specialist debt experts. And it waived £100 of charges. When Miss S didn't like the solution which Halifax's specialist team recommended, the bank gave her contact details for two debt charities. A bank isn't required to take into account how the customer came to be in debt. So I find that Halifax did act positively and sympathetically once Miss S told it about her situation.

Finally, I can't comment on Miss S's other creditors and what Miss S says they've done. This complaint is brought against Halifax, and I find that Halifax acted appropriately when it heard about Miss S's financial difficulties. As Miss S isn't willing to accept Halifax's debt team's advice, she might wish to consult a free debt charity of her choice.

### **my final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 5 March 2018.

Belinda Knight  
**ombudsman**