

complaint

Mr L complains about information recorded on his credit file by Bank of Scotland plc (trading as Halifax).

background

Mr L had a credit card with Halifax. In August 2011 he told Halifax he was experiencing financial difficulties. In September 2011 Halifax agreed to accept token monthly payments from Mr L. And it stopped interest and charges on the account while the agreement was in force. It said it would review the arrangement in six months' time.

The following month, Halifax sent Mr L a default notice. Mr L contacted Halifax when he received the notice. It replied that in view of Mr L's circumstances, it had applied a temporary repayment plan to his account for three months. It said the plan would "*prevent the default being registered within this time*". It would contact Mr L to discuss the situation further once the three months came to an end.

A few weeks later, in December 2011, Halifax registered a default on Mr L's credit file and transferred his account to debt recovery agents. No further interest or charges were added to the account after that.

In early 2012, the debt recovery agents agreed to accept a payment from Mr L of 35 % of the amount that was outstanding. The remaining balance of more than £3,000 was written off.

In the letter in which he made the offer, Mr L explained that it was on the understanding that no action would be taken to enforce or pursue the debt, and that he'd be released from any liability. And he said "*I also request that if accepted, you will make an entry on any credit reference agency files relating to this account as "satisfied in full"*".

Halifax accepts that it was wrong when it told Mr L that the temporary repayment agreement would prevent a default being registered for three months. It's offered to pay Mr L £200 to reflect the trouble and upset this caused him. It's also said that it will arrange for the default to be removed if Mr L pays the amount that would have been needed to bring his account up to date and prevent the default from being recorded. Mr L says he's not in a position to make the payment. But he doesn't consider Halifax's offer to be enough.

Our adjudicator thought that Halifax's offer was fair. He said, in summary, that Halifax hadn't acted unreasonably in registering the default. He explained that whether, and on what terms, to accept an offer of settlement was a matter for Halifax's commercial judgement. He thought the information Halifax had recorded on Mr L's credit file was accurate. And he thought that what the recovery agents had agreed to do was to accept a part payment of the debt and not pursue Mr L for the remainder. He didn't accept that they'd agreed to remove the default.

Mr L is unhappy with the adjudicator's decision, so the complaint has been passed to me.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've reached the same conclusion as the adjudicator, for similar reasons.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here) I reach my decision on the balance of probabilities – that is what I consider is most likely to have happened, given the evidence that is available and the wider circumstances.

I consider Halifax's correspondence with Mr L to have been confusing. When it told Mr L that it had set up a three-month repayment plan for him, he was only a month into a six-month payment arrangement. And Halifax has accepted that it shouldn't have told Mr L that the plan would prevent a default from being registered. But I'm not convinced that this had any significant effect on Mr L's position.

Mr L was experiencing serious financial difficulties and was seeking to settle his debts for substantially less than the full amount owing. He kept up with the token payments under the repayment plan. But he hadn't made the payments due under the original agreement for some months. And there was no indication that this was likely to change in the short term. So even if Halifax had made it clear to Mr L that it would register a default if he didn't bring his account up to date, and even if it had waited until after the end of the three month period to take further action, I'm not convinced, on balance, that he'd have been able to prevent the default from being registered.

By the time Mr L made his offer to settle the debt, the default had already been registered. Mr L says the agents led him to believe that if he made the payment, they would record the debt as satisfied in full and would remove the default from his credit report. He says he had several phone conversations with the recovery agents. Unfortunately there's no record of those calls except for the call in which Mr L offered the settlement. But he didn't specifically ask the recovery agents to remove the default in the letter in which he made the settlement offer. And I'm not convinced, from the available evidence, that they said they would do so.

Lenders have a duty to make sure that information they report to credit reference agencies is accurate. In this case, Halifax, through its agents, had agreed to accept a partial settlement of the debt. So it would have given a misleading impression if it had marked Mr L's debt as satisfied in full.

I understand that Mr L feels that he's been "tricked" and considers that the recovery agents should have told him specifically that they wouldn't record his debt as satisfied in full. I agree that this might have been helpful. But I don't consider that he made it clear in his letter that his request to have his debt marked as satisfied in full was a condition of his offer. And when the recovery agents replied, they said that Mr L's "*offer of partial settlement*" had been accepted. I'm not satisfied, on balance, that the recovery agents agreed, either expressly or impliedly, to mark the debt as satisfied in full on Mr L's credit file.

Mr L objects to the fact that Halifax wasn't willing to accept a partial settlement of his debt without transferring the account recovery agents and registering a default. He's commented that other credit card providers haven't imposed the same conditions. But as the adjudicator explained, whether to accept an offer of settlement, and on what terms, was a matter for Halifax's commercial judgment.

We do expect lenders to treat customers experiencing financial difficulties positively and sympathetically. When Mr L told Halifax about his financial problems, he was already using a free debt advice service. Halifax agreed to accept token payments temporarily. And it froze interest and charges on the account while the agreement was in place. This was designed to stop the debt increasing and help Mr L to get his finances back in order. I'm satisfied that

Halifax did all that could reasonably be expected of it to treat Mr L's situation positively and sympathetically.

Halifax has offered to pay Mr L £200 to compensate him for the trouble and upset it caused him when it told him incorrectly that it wouldn't register a default while the three-month repayment plan was in place. It follows from what I've said that I don't consider that I can fairly require it to do more.

my final decision

My decision is that Bank of Scotland plc (trading as Halifax) should pay Mr L £200.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 9 November 2015.

Juliet Collins
ombudsman