

complaint

Mr J complains that following the sale of his debt by Bank of Scotland plc, defaults relating to the accounts he previously held with the bank are shown twice on his credit file.

background

In 2010 Bank of Scotland recorded defaults against each of Mr J's accounts on his credit file. In December 2010 Mr J was declared bankrupt. The bankruptcy was discharged a year later. Bank of Scotland sold Mr J's debt the following month. And the purchaser of the debt also recorded defaults on Mr J's credit file.

After Mr J complained, Bank of Scotland apologised that Mr J's debts to it weren't marked as satisfied on his credit file. And it arranged for them to be marked as satisfied from the date on which he was discharged from bankruptcy. It paid him £400 to apologise for its delay in doing this, and for incorrectly telling him that it shouldn't have sold his debt. And it paid a further £180 to cover Mr J's costs of getting copies of his credit reports for a year.

Mr J isn't happy, and would like Bank of Scotland to remove the defaults from his credit file. He says it's having an impact on his credit score and affecting his ability to get credit. He says the accounts have been duplicated on his credit file for several years and showed his debt as still outstanding until Bank of Scotland corrected the position earlier this year. So he'd like it to compensate him.

Our adjudicator recommended that the complaint should be upheld in part. She acknowledged that Bank of Scotland had made a commercial decision to sell the debt. But she didn't think it was fair that the debts showed twice on Mr J's credit file. So she recommended that Bank of Scotland remove the adverse information it had recorded.

Bank of Scotland was unhappy with the adjudicator's recommendation. It said the company it sold Mr J's debts to buys debt from people who've been declared bankrupt. The debts won't be actively pursued, but Mr J has the option of making payments towards them, which could improve his credit rating. It said it was right that the defaults it recorded still show on Mr J's credit file. But the debts now show as satisfied, with a zero balance. And it said the information it's recorded is accurate and complies with guidance issued by the Information Commissioner's Office.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr J and to Bank of Scotland on 4 December 2015. I summarise my findings:

- I could understand Mr J's anxiety about the information shown on his credit file. But I found that the information recorded by Bank of Scotland was correct. It's normal for a default to remain on a credit file for six years. This is the case whether or not the account-holder is bankrupt. So I couldn't require Bank of Scotland to remove the defaults.
- It was unfortunate that Bank of Scotland didn't mark Mr J's debts as satisfied when it should have done. But it had paid him £400 to apologise for its delay in doing so, and I considered that to be reasonable. Even if it had marked the debts as satisfied sooner, the defaults would still have remained on Mr J's credit file for the full six

years and would have been visible to any prospective creditor. So I wasn't convinced that Mr J's chances of getting credit would have been significantly worse as a result of Bank of Scotland's delay in marking them as satisfied.

- Bank of Scotland has explained that the company it sold Mr J's debt to accepts payments if the debtor wishes to make them, but doesn't actively pursue them for the debt if they've been made bankrupt. We'd explained to Bank of Scotland that we wouldn't normally expect a lender to sell a debt after the debtor's been discharged from bankruptcy. But I needed to consider whether Mr J is in a worse position than he would have been in had it not done so.
- The default dates that the purchaser recorded on Mr J's credit file are the same as those originally recorded by Bank of Scotland for each account. So they will be removed from Mr J's credit file in 2016, at the same time as the defaults recorded by Bank of Scotland. And all are now marked as satisfied. In the meantime, the defaults recorded by Bank of Scotland will be visible to any potential creditor until they expire in 2016. I'd found that they were properly recorded. I'd expect those defaults alone to have a significant impact on Mr J's ability to obtain credit. And I wasn't convinced that the position would be worsened significantly by the defaults the purchaser registered.
- It followed that I wasn't satisfied, on balance, that Mr J's chances of getting credit are worse than they would have been if Bank of Scotland hadn't sold the debt. Bank of Scotland has paid Mr J £400 to apologise for its delay in marking the debts as satisfied. I didn't consider that I could require it to compensate him further or take any other action.

further submissions

Bank of Scotland hasn't commented on my provisional decision. But Mr J disagrees with it. He says, in summary:

- The £400 that Bank of Scotland paid him was because it initially accepted that it had wrongly sold his debt after he was made bankrupt. And it paid him to cover the costs of getting copies of his credit reports until the information was corrected. Bank of Scotland subsequently changed its mind about whether the debt should have been sold. It didn't ask Mr J to return the money. But the money shouldn't be considered as an apology for Bank of Scotland's delay in marking the debts as satisfied.
- His complaint isn't about compensation. And it's not about the time it took Bank of Scotland to confirm that all the debts are satisfied. It's about having the correct information on his credit file. His credit file still shows duplicated debts.
- He's not asking Bank of Scotland to remove the entries in its own name from his credit record. He's asking it to instruct the purchaser to remove the entries it made, so that the debts aren't shown as duplicated.
- He filed for bankruptcy to put an end to being pursued for debts that he was unable to pay. He was told that becoming bankrupt would stop creditors pursuing him and would finalise his debt.

my findings

I've considered all the available evidence and arguments, including the further points that Mr J has made to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm not convinced that I should depart from the findings in my provisional decision.

I can understand that when Mr J filed for bankruptcy, he was entitled to expect that he was leaving his debts behind him, and wouldn't be pursued for them anymore. And as I said in my provisional decision, we wouldn't normally expect a lender to sell debts on once the debtor has been discharged from bankruptcy. But Bank of Scotland has explained that the company which bought Mr J's debts doesn't pursue debtors for the debt. So although I can sympathise with Mr J's dissatisfaction that the debt was sold on, I don't consider that he's in a worse position as a result, in practical terms.

I don't accept that Mr J's credit file gives the impression that his debts are double the true figure. The entries made both by Bank of Scotland and by the purchaser are now marked as satisfied, with zero balances. So it's clear that there's no debt outstanding. I can't order Bank of Scotland to require the purchaser of the debt to remove the entries it made, as Mr J would like.

As I said in my provisional decision, the defaults recorded by Bank of Scotland will be visible to any potential creditor until they expire later this year. I'm satisfied that they were properly recorded. Even without the defaults recorded by the purchaser of the debt, I'd expect those defaults to have a significant impact on Mr J's ability to obtain credit. The defaults the purchaser registered will expire on Mr J's credit file at the same time as those recorded by Bank of Scotland. So I'm not convinced that Mr J's position has been made significantly worse by the defaults the purchaser registered.

I acknowledge that there's been some inconsistency in what Bank of Scotland said the £400 it paid Mr J was for. When it sent its final response to Mr J, it said it was to apologise for the distress and inconvenience it had caused him by incorrectly telling him that it shouldn't have sold his debt. But in correspondence with us after Mr J brought his complaint to us, it said it was to apologise for the fact that it didn't at first show the accounts as satisfied.

I've commented that we wouldn't normally expect a lender to sell a debt after the debtor's discharged from bankruptcy. It's unfortunate that Bank of Scotland gave Mr J conflicting information about whether it was entitled to do this. And I've accepted that Bank of Scotland took longer than it should have done to amend its entries on Mr J's credit file to show the debts as satisfied. But I don't find that it was at fault in other respects. And I can't ignore the fact that it's already paid Mr J a total of £580. In the circumstances, my view remains that I don't consider that I can fairly require it to do more.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 15 February 2016.

Juliet Collins
ombudsman