

## **complaint**

Mr and Mrs L complain that Bank of Scotland plc (BOS) didn't default their accounts after they entered into a Debt Arrangement Scheme (DAS).

## **background**

Mr and Mrs L both have accounts with BOS. In 2018, Mr and Mrs L entered into a DAS – which is a Scottish scheme to help people repay their debt to their creditors in a manageable way.

Mr and Mrs L feel that BOS should register a default against them for their accounts – which are in arrears. And they believe this should be backdated to the date they entered into their DAS. BOS has said that it won't be registering a default against them as that doesn't fall in line with the scheme. Mr and Mrs L complained. They believe that BOS's actions means their credit files will be affected for longer and this will cause detriment to their family.

Our investigator didn't think BOS had done anything wrong. He explained that under a DAS, BOS has to cease all activity to recover the money – which includes not defaulting the account. Mr and Mrs L disagreed. They believe that they are in a debt management plan and that BOS isn't following the guidance from the Information Commissioner's Office – so a backdated default should be entered on their credit file.

As an agreement hasn't been reached it has been passed to me for decision.

## **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'm not upholding this complaint and I'll explain why.

Mr and Mrs L have explained that they feel BOS should be following the Information Commissioner's Office guidelines for their debt management plan, and consequently feel BOS should have defaulted their accounts some time ago. However, the DAS that they entered into isn't the same as a debt management plan.

The DAS is a scheme that runs in Scotland. It provides people with a way of repaying their debt in a manageable way. It is not a debt management plan. When Mr and Mrs L entered into their DAS, and created a debt payment programme (DPP), BOS was bound by this as well. This means that BOS, as a creditor, had to do the following:

- *Cease any planned enforcement actions*
- *Stop any correspondence with the debtor seeking payment for the debts whilst the DPP is on-going*
- *Not attempt to persuade the debtor to withdraw from the programme or to make additional payments in respect of a debt included in the programme*
- *Freeze all interest, fees and charges on the debts in the DPP from the date the DAS administrator or money adviser submitted the application for a DPP*
- *Upon request provide necessary information to assist the management of the DPP*

Because of this, I don't think BOS has done anything wrong in not entering a default against Mr and Mrs L for their accounts that are in arrears. The accounts are part of the DPP and the

debt is being repaid. Once the DAS has completed, the accounts will be settled. Therefore there won't be a default recorded on the credit file – unless Mr and Mrs L don't keep up their repayments under their DAS.

I understand that Mr and Mrs L believe that they are at a disadvantage now because a default hasn't been registered, so they feel that in six years they will be in a worse position than if BOS defaulted their accounts. But once they have repaid their debt under their DAS, the account will be settled without the need for a default being entered onto their credit file. And it isn't BOS's responsibility to explain the effects of entering into a DAS.

In summary, I don't think BOS has done anything wrong by not registering a default against Mr and Mrs L. It has followed the guidelines set out under the DAS. So I won't be asking it to do anything more.

### **my final decision**

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs L to accept or reject my decision before 31 August 2019.

Charlotte Wilson  
**ombudsman**