

The complaint

Mr D complains Bank of Scotland plc trading as Halifax (Halifax) unfairly defaulted his two loan accounts.

What happened

Mr D says he applied for a payment holiday online and telephoned Halifax a few days later on 10 August 2022, as he hadn't the funds to make his monthly loan repayments on his two loan accounts. Mr D says Halifax agreed to a one-month payment holiday. Mr D says he discovered in November 2022 his loans had been defaulted as his direct debit for the two monthly loan payments hadn't been claimed. Mr D says he wasn't informed of this by Halifax and never received the letters it says it sent him. Mr D says Halifax never telephoned him or sent him emails, it simply relied on the postal system before defaulting him and damaging his credit file. Mr D says this matter has caused him considerable upset and stress and wants Halifax to remove the default on his credit file.

Halifax says it agreed with Mr D a one-month payment holiday but due to the fact he'd originally applied for this only a few days before the loan payments were due, it could only put a payment holiday in place for the following month, which was explained to him over the telephone. Halifax says it also informed Mr D during that telephone call in August 2022, that his direct debit would be cancelled to avoid it being represented and he would need to make alternative arrangements going forward. Halifax says it agreed with Mr D that the loan payments that were missed in August 2022 would need to be made up to date before the September 2022 loan instalments were due.

Halifax says Mr D failed to make the loan payments due in the following months and despite writing to him and advising him of this via his banking app, Mr D didn't contact them, so it defaulted the loans and placed the loan accounts with debt collection agents. Halifax says it has acted correctly here.

Mr D wasn't happy with Halifax's response and referred the matter to this service.

The investigator looked at all the available information but didn't uphold the complaint. The investigator felt Halifax had carried out the correct steps before defaulting Mr D's loan account as he had failed to make the required payments for the preceding three months. The investigator says he had seen evidence to show Halifax had written to Mr D concerning his arrears and had also sent messages via his banking app in line with its process and didn't feel it needed to also telephone Mr D about this. The investigator felt Mr D had an obligation to make sure he made his monthly loan payments on time. The investigator felt Halifax had acted fairly when it registered the default and passed the loan accounts to the debt collection agents when it did.

Mr D didn't agree with the investigator's view and asked for the matter to be referred to an ombudsman for a final decision.

What I've decided – and why

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 won't be upholding this complaint and I will explain how I have come to my decision.

I can understand it would have been upsetting for Mr D to have learnt his two loan accounts had been defaulted, when he believed the direct debit for the monthly payments were going to be reinstated by Halifax after the agreed payment holiday. When looking at this complaint I will consider if Halifax acted fairly when it defaulted Mr D's two loan accounts in November 2022. I have been provided with comprehensive details, including telephone call recordings and transcripts and while that has proved helpful, I won't be commenting on every point as I don't feel it's necessary in order to come to a full and impartial decision here.

The first thing to say is Mr D has questioned why a transcript of a telephone call he had with Halifax in August 2022 was used as evidence in this case, but the investigator has explained it's important that this service looks at all the available evidence in order to come to a full and impartial decision, after all Mr D did ask this service to consider other calls he had made to Halifax in November 2022, which I have considered here.

Mr D's complaint centres around the fact Halifax defaulted his two loan accounts in November 2022, although he'd never received any earlier letters or other forms of communication from them to tell him of this. Mr D says he'd arranged a loan payment holiday with Halifax in August 2022 and expected the loan payments to be collected by direct debit as before, but this didn't happen.

While I understand the points Mr D makes here, I'm not fully persuaded by his argument. I say this because I have seen the transcript of a call Mr D had with Halifax in August 2022 where he agrees to cancel the direct debit to his loan accounts and arrange for these to be reinstated at a later date to allow him breathing space for that month, as he was struggling to meet the payments due that day. In fact, Mr D had earlier applied for a one-month payment holiday online, on 6 August 2022, but was informed when he called a few days later that he'd missed the deadline for that month, so Halifax had agreed to give him a payment holiday for September 2022 instead.

In that telephone call Halifax agreed to reverse the loan payments due to be taken on that day in August 2022, but on the understanding Mr D would need to make arrangements to make these payments up before 10 September 2022. From the transcript notes I've seen of that call Mr D agrees to this arrangement and when questioned whether he could afford to make this payment up in that timescale he said he could, explaining the issue was related to the costs of a house he was having built overseas which was coming to an end shortly. Furthermore, during that conversation with the agent from Halifax it was again explained to Mr D he would need to manually make this payment before 10 September 2022, after which Halifax could discuss arranging for a new direct debit to be set up for future payments and he was asked if he understood - Mr D said he did.

Following on from this I can't see Mr D attempted to make up the payment as agreed nor did he attempt to call Halifax to make the manual payment as previously explained to him. As a result, Mr D missed payments due on his two loan accounts in August, October, and November 2022. I can see that Halifax did send a letter to Mr D in August 2022 advising him of the one-month payment holiday for September 2022 and then wrote a further five letters between mid-September 2022 and late November 2022 advising him of missed payments, arrears, and eventual defaulting of the loans. Mr D says he never received the earlier letters

regarding the default and arrears and questioned why Halifax didn't try to telephone him or contact him by some other method. Although I understand the point Mr D makes here, it's fair to say that in the circumstances where a payment holiday is agreed, altering the original loan agreements in place, or where a missed payment or default is to be registered then I would expect this to be formally communicated by letter and it's not for me to tell Halifax it must additionally telephone him about this.

It's worth saying Mr D would have also received bank statements online so he would have been able to see the loan payments hadn't been taken and it remains his responsibility to ensure he keeps to the terms and conditions of those loans and makes sure those loan payments are made on time. Mr D provided this service with a copy of a letter dated 25 October 2022 from Halifax outlining the timescales he had to prevent further action being taken, but from the information I have seen Mr D only telephoned Halifax in late November 2022, by which time the default had been registered.

It's not clear why Mr D says he didn't receive the other letters Halifax sent to him addressed to the same address the letter of 25 October 2022 was sent, but I can't hold it responsible for their non-receipt and overall, in any event I'm satisfied Mr D had the opportunity to check his payments were being collected as they had prior to the payment holiday. While I have some sympathy with the fact Mr D suggests he wasn't fully aware of what he'd agreed to and was under some stress at the time in August 2022, it's also reasonable to say if he was in any doubt he had the opportunity to speak to Halifax to discuss matters between September 2022 and November 2022, when the default was finally registered.

So here, I am satisfied Halifax did clearly inform Mr D of the terms of the agreement of the one-month payment holiday in August 2022 and had taken reasonable steps to let him know of the consequences of him not making the loan payments when they became due. Halifax have a responsibility and obligation to accurately record its customers account activity to the relevant credit reference agencies and I'm satisfied it did that here for the reasons I have already stated.

While Mr D will be disappointed with my decision, I won't be asking anymore of Halifax.

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 Mr D to accept or reject my decision before 18 September 2023.

Barry White
Ombudsman