

## The complaint

Ms O complains that Bank of Scotland plc trading as Halifax did not remove four late payment markers they registered on her credit file which impacted her ability to get credit.

## What happened

In October 2016, Ms O had raised a complaint with Halifax regarding fees which had been applied to her current account. Halifax agreed to refund the fees which left an overdrawn balance of £518.44. Halifax also agreed to close her account and backdate the default to October 2014, and they also advised her that if she repaid her debt within 60 days they wouldn't close her account or apply a default. As Ms O cleared the balance the following month, her account remained open. Ms O says that there had been four late payment markers which had been recently applied to the account which shouldn't have been applied. Ms O made a complaint to Halifax.

Halifax upheld Ms O's complaint. They said that as no default was applied to her credit file, they didn't check it and notice that four late payment markers had been recently applied. They apologised for not removing the negative information from her credit file in 2016, which impacted her recent applications for credit and caused her a lot of worry. Halifax said the late payment markers would be removed within the next seven days, but it could take up to 60 days to show on her credit file. They offered her compensation of £94.99, which included £14.99 to cover her credit file fee. Ms O brought her complaint to our service.

Our investigator said that the evidence showed that Ms O was in an unarranged overdraft and that Halifax wrote to her twice in September 2016 regarding the account status, warning her of the consequences of not paying the outstanding balance on the account. She said Ms O cleared most of the outstanding balance with a small remaining balance of £30.44 which Halifax cleared on 1 December 2016, and there was no evidence that they had recorded a default, so they did what they said they would do. Our investigator said that Halifax had wrongly admitted that they shouldn't have recorded adverse entries and agreed to remove them, which the evidence shows that this has been done. But she said she didn't agree that Halifax made an error in recording the information initially. And as such, she benefitted from the information being removed when Halifax shouldn't have removed this.

Ms O asked for an ombudsman to review her complaint. She highlighted the wording used by Halifax which included the wording *"I'm sorry we didn't remove the negative information from your file in 2016. I appreciate that this has impacted your recent applications for credit and caused you a lot of worry"*.

## 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.

I must make Ms O aware that I'm unable to look into the merits of the complaint she raised with Halifax in 2016 and that Halifax addressed in the letter dated 3 October 2016, as this has been brought to our service outside of the time limits which would allow me to look into

this.

But I have looked at Halifax's wording which she has highlighted to our service from her response to her recent complaint. The letter is dated 28 September 2022. The wording is how Ms O described it on the previous page of this decision. Halifax have explained that the discrepancy for this is that when their complaint handler assessed the complaint that Ms O brought to them in 2022, the complaint handler assessed how they would've looked at the complaint in view of how they would treat things differently now compared to 2016.

Halifax have explained that if they would have looked at things how they should've done, then they wouldn't have removed the late payment markers as the agreement was "*If the balance is cleared by 25th November 2016 I will remove any default information if recorded before this time*". As a default is different than a late payment marker than this is why Halifax say they shouldn't have agreed to remove the four late payment markers and Ms O has benefitted from these being removed when they shouldn't have been.

Based on the wording of the response Ms O received in 2022, I can understand why she believes Halifax have done something wrong as they said they did in that letter. But having a look at the response in her 2016 letter, this does say that they would remove any default information, which is different from a late payment marker.

Ms O has confirmed to our investigator that she doesn't have a copy of her credit file, so I'm unable to see what has been reported to the Credit Reference Agencies (CRA's). The information which Halifax have provided me about the information reported to the CRA's is after they asked them to remove the four late payment markers, and they don't have the information prior to this, so they are unable to tell me the dates of the late payment markers.

Ms O's final response letter from 2016 shows that Halifax refunded £530 worth of fees. Ms O's bank statements shows that she was overdrawn by £518.44 after the £530 refund had reduced her balance on 3 October 2016 – the same date as her final response. No bank fees had been charged after this. £75 was paid into the account on 17 October 2016, which meant she was overdrawn by £443.44. But when she made the final payment to the account, the statements show this was for £413, and not £443.44. So this meant she had an unarranged overdraft still, which Halifax would be obliged to report this to the CRA's as they are required to report accurate information.

Without Ms O's credit file, or the dates of the late payment markers from Halifax, I'm unable to see if this is the timeframe that Halifax reported the unarranged overdraft (the four late payment markers) to the CRA's. But on the balance of probabilities, I'm persuaded it was. I say this as Ms O has forwarded on to us an email of her credit application with a third party bank being declined in July 2022. As information is usually held on a credit file for six years, this would fit into when Halifax made a goodwill payment to clear the unarranged overdraft on 1 December 2016. So it may be that the credit file was showing late payment markers (the unarranged overdraft) for August, September, October and November 2016 (or around these dates).

But ultimately, the final response letter from 2016 shows they would not register a default if she made the required payment. It did not say they wouldn't register an unarranged overdraft or late payment marker. As Ms O's statement shows she was still in an unarranged overdraft even when she had made a payment, then I can't say Halifax were wrong to report this to the CRA's. But they arranged to have this removed from her credit file in September 2022.

As Halifax have given conflicting information about these markers by first saying they made an error not removing them, and now they say they didn't make an error reporting them, they

have agreed to honour the compensation they offered her on 28 September 2022 of £94.99. I'm satisfied that this is a fair offer based on the information I've been able to consider here, so I think Halifax should pay Ms O the £94.99 that they have offered her, but I don't require them to do anything further.

### **My final decision**

Bank of Scotland plc trading as Halifax has already made an offer to pay £94.99 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Bank of Scotland plc trading as Halifax should pay Ms O £94.99. But I won't be requiring them to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms O to accept or reject my decision before 1 November 2023.

Gregory Sloanes  
**Ombudsman**