

## **The complaint**

Miss W complains that Bank of Scotland plc trading as Halifax won't refund her for transactions she says she didn't authorise, and also applied a default to her credit file. She'd like the disputed transactions refunded, and the default removed.

## **What happened**

Miss W says she was living abroad for 10 years, but bought a house back in the UK in 2020. During the time she was away from the UK, she had a current account with Halifax, that was registered to her parents' address. But they moved out of this address in 2019 and Miss W didn't give Halifax an alternative one to use. When Miss W visited the UK for holidays across the 10-year period, she'd put money into the Halifax account to use, but she said she wasn't aware that the account was overdrawn at any stage, as she wasn't monitoring it.

During her time abroad, some transactions debited Miss W's Halifax account that she says she didn't authorise. The last disputed transaction debited in 2018. She says she wasn't aware of such transactions until 2020 when she was contacted by a debt collections agency about an overdraft on the account.

Halifax applied a default to Miss W's credit file in September 2021 due to non-payment of the overdraft, despite requests for Miss W to repay the outstanding balance. It has since backdated this default to December 2020 as following a review, it believes it would've been more appropriate to default the account at this time instead.

Miss W contacted Halifax about the disputed transactions in 2022, asking for the default to be removed and for a refund of the amounts she says she didn't authorise. But despite agreeing to backdate the default due to what it believed was an error on its part, it didn't feel it would be appropriate to remove it. And, as for the disputed transactions, Halifax said that as Miss W hadn't reported them within 13 months of the last transactions debiting her account, it wouldn't be investigating them any further.

Unhappy with this, Miss W referred it to our service where it was considered by one of our investigators. He didn't feel Halifax had made any mistake by declining to investigate the disputed transactions due to the time that had passed. And, he also felt it was reasonable that Halifax continue to record a default to Miss W's credit file.

Miss W remained unhappy, and so the complaint has been passed to me to decide.

## **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.

The relevant regulations in place are the Payment Services Regulations (PSRs). Across the period of Miss W's complaint there are two sets of regulations (2009 and 2017). But both regulations say that a consumer is only entitled to a refund for unauthorised transactions if

they report them to their bank without undue delay, and no later than 13 months after the transaction took place.

The terms of Miss W's account also say that the bank won't refund transactions which took place over 13 months from when they're reported. The expectation is that a consumer would be expected to manage their account effectively, and if they notice a transaction which they don't recognise to report it without delay.

Our investigator has already pointed out that Miss W continued to be responsible for monitoring her account and ensuring that Halifax had an appropriate correspondence address, and this is despite her being out of the country for a number of years. I agree with this, and I'm not aware of any reason why Halifax wouldn't have been able to amend her correspondence address to her overseas one, or that she was prevented from using online banking during her time abroad. I appreciate Miss W says she was unaware of the disputed transactions or the overdrawn balance of the account, but I find that she should've been, for the reasons above.

I also note that Miss W deposited money and used the Halifax account in November 2019, and April and June 2020 for genuine transactions. She says she did this as she was visiting the UK and needed an account to use during this time. But she still didn't see the disputed transactions that had happened before this time.

But in 2022 when Miss W raised her complaint, all the transactions in dispute were over 13 months previous. Miss W has told our investigator that she believes she made Halifax aware of the transactions in 2021 or even 2020. I haven't seen any record of this, but even if she did, this is still more than 13 months since the last disputed transaction debited. I appreciate this will come as a disappointment to Miss W, but I'm satisfied that it's not unreasonable for Halifax to decline to investigate the transactions further – based on the relevant regulations and its own terms and conditions.

The default was applied to Miss W's credit file as a result of the overdrawn position of the account, following requests for Miss W to fund the account to clear the overdrawn balance. I've seen the letters sent to the address Miss W had registered with Halifax before the default was applied, and I find these gave appropriate notification and an explanation as to what would happen if the account remained overdrawn, including Halifax's intention to register a default to Miss W's credit file. Miss W's Halifax account did have an agreed overdraft limit available, but as per Halifax' account terms which say, *'an overdraft will continue until we or you end it. We can ask you to repay an overdraft at any time,'* I can't agree it has made an error in the way it handled the collections activity for the overdrawn balance. I appreciate Miss W didn't receive these letters as her parents no longer lived at the address they were sent to, but Halifax wasn't aware of that, and therefore it was appropriate that the letters were sent to the address it held on file for her.

I was sorry to hear of the difficulties Miss W has faced since discovering the default on her credit file. This can't have been an easy time for her. But in the circumstances of this complaint, I can't agree that Halifax has made any errors, so I won't be asking it to do anything further.

I note Halifax has already agreed to backdate the default to December 2020 instead of September 2021, I find this appropriate as it's an accurate reflection of the account activity at the time.

Halifax has already paid a total of £105 for a delayed response to Miss W's complaint about the disputed transactions, and for recording the default when it did. I think this is very fair, and therefore I won't be asking it to pay anything further.

**My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 13 November 2023.

Lorna Wall

**Ombudsman**