

## **The complaint**

Mr B complains that Bank of Scotland Plc (BOS) removed his overdraft limit without warning and provided him with loans that were unaffordable. He feels that they acted irresponsibly.

## **What happened**

Mr B had a current account with an overdraft facility of £250 and a loan of around £12,500 with BOS. In April 2019, Mr B found himself in financial difficulty, so he complained to BOS. He told them that over the last few years he felt they'd lent him money irresponsibly by allowing him to continue borrowing through various loans he'd taken out from 2016 until the current one which he'd taken out in 2018.

He also felt they should have realised his debt problems were increasing because he was also borrowing from payday lenders – on top of the loans from BOS - and was experiencing problem gambling. Which he says they would have seen on his statements as he was spending most of his income on gambling. Around the same time, Mr B also approached a third party to lend him £200 as he had no money left for living expenses. He also approached a charity, who I'll call 'S', to help him organise his finances.

As Mr B was incurring charges on his account, S asked BOS to help Mr B by stopping the charges being applied. However, in doing this, BOS also removed Mr B's overdraft facility without telling him. So, Mr B raised a further complaint about the difficulties removing the overdraft had caused to both his finances and his health.

BOS didn't uphold the complaints. They said they'd given Mr B the £200 when he'd contacted them to say he needed it. They also explained, that because S had asked them to stop all interest and charges on Mr B's current account, they'd had to remove the overdraft as part of their process.

BOS said that when Mr B had applied for each of the four loans, he'd used internet banking and declined to speak to an adviser. They said that Mr B hadn't told them when he made the applications that he had borrowed elsewhere, and because of this they'd relied on the information available from credit reference agencies. BOS explained that based on the information available, they felt the loans were affordable for him. But Mr B didn't agree, so he asked this service to look into his complaint.

Our investigator thought the complaint should be upheld in part. She didn't think BOS had treated Mr B unfairly by removing his overdraft facility, as they were acting in his interests and they'd given him the money he requested when he explained his circumstances. She also felt that the first three loans Mr B had successfully applied for had been assessed fairly.

However, she felt that because there had been such a short period between Mr B's applications for loans three and four, and there was an increase in the volume of gambling transactions as well as evidence of payday loans, that BOS should have undertaken further checks before agreeing to the fourth loan.

So, she felt that BOS hadn't lent to Mr B responsibly and that they should refund the interest and charges Mr B had already paid and freeze any further interest. But she felt he should repay the loan capital as he'd had the benefit of the money.

Mr B agreed with the investigator's opinion, but BOS didn't. They said that when the loans had been agreed, Mr B's credit information showed he could afford them as he had sufficient disposable income. And that the information given to them by S also showed this. They also said the payday loans hadn't appeared on Mr B's credit file until after he'd applied for the loans, so they wouldn't have been able to take this into account.

As an agreement couldn't be reached, the case 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.

Having done so, I'm partially upholding this complaint. I'll explain why.

#### *Irresponsible lending*

When deciding whether to lend to a customer, a bank has certain obligations that it needs to meet to comply with the rules set down in CONC 5.2A. These include carrying out reasonable and proportionate checks which are dependent on the circumstances of each individual application. They also need to consider what any borrowing is for and ensure their customer can afford to repay any new borrowing in a sustainable way.

BOS have said throughout that they feel the loan was affordable to Mr B – and that's not in dispute here. What I need to consider is if BOS lent to Mr B in a responsible way – which I don't think they did.

I say this because there was only a two-month gap between Mr B applying for loan three and four. Looking at Mr B's statements there was a significant deterioration in the running balance on his account during that two-month period due to his problem gambling. I've also seen that Mr B asked for a repayment holiday less than two months after taking out the final loan, and several times over the next five months.

Mr B also said that he felt BOS had lent to him irresponsibly because his statements showed that he was experiencing problem gambling and he was having to turn to payday lenders for money. BOS said that their decision to lend had been made by their automated system based on the income and outgoings Mr B had given them, any current borrowing and repayment history, and his current credit score. And that based on this information they felt the loans were affordable for Mr B.

I recognise that in isolation that the checks the bank ran may not have been enough to flag that Mr B was experiencing financial difficulty, and that based on his income and outgoings the loans were affordable. I also acknowledge that BOS feel that with the benefit of hindsight it's easier to identify where a consumer is experiencing issues. However, Mr B was BOS's customer and they had access to his account transactions, and the history of his loans which I think should have been enough to for them to at least ask further questions.

Part of being a responsible lender is understanding what a customer will be spending their borrowing on. I've looked at the applications Mr B completed online, and he didn't say what he was intending to use the borrowing for – and BOS didn't question this.

Looking at the history of the loans I think there were other triggers, such as Mr B's first loan being taken in Mid-December 2016, loan two being taken out six months later, then loan three of around £10,600 being taken out in April 2018 and less than two months later loan four of around £12,500. I think this reasonably shows unusual behaviour, as it's not common for someone to take out loans back to back like this. And I think this in itself, should have been enough for BOS to take a more thorough look at Mr B's account before agreeing to lend to him again.

In addition to this, I've looked at Mr B's bank statements which clearly show both regular and significant transactions to support his problem gambling along with borrowing from payday lenders. I think based on volume and amounts that Mr B was spending from his account e.g. December 2017 when he spent around £3,200 on gambling in one day, that it would have been reasonable for BOS to at least question whether Mr B was vulnerable.

It's not uncommon for a bank to include additional security checks when significant transactions are made within a short timeframe so I think there would have been an opportunity for BOS to at least contact Mr B to see if he'd made the payments, which in turn would have alerted them to his situation. But I can't see at any point they made any additional checks.

I think if BOS had asked Mr B more questions about the significant transactions on his account, what he'd spent his previous loans on, and what he wanted the loans for, it's likely that they wouldn't have lent him loan's three or four as they eventually did. And based on the evidence I've seen, I think there were numerous opportunities for BOS to identify that Mr B was a potentially vulnerable consumer who might struggle to sustainably pay back what he borrowed. However, the information was viewed in isolation without thinking about the bigger picture – and ultimately Mr B was given an inappropriate loan amount.

I recognise that BOS feel Mr B should take some responsibility for his actions as he made the online applications. And I also acknowledge that he didn't contact BOS until April 2019 when he was in severe financial difficulty to make them aware of his vulnerability. But Mr B hasn't disputed he's had the benefit of the money that he's borrowed, and I think it's fair for BOS to be able to ask Mr B to pay that back.

However, I also think BOS should refund both the interest and charges they've already charged Mr B for the loan taken out in June 2018, and any future interest and charges that would be payable. As those are charges Mr B wouldn't have had to pay had BOS not granted him the additional loan. BOS should also remove any record of the adverse credit information and the loan from June 2018 from Mr B's credit file, so he isn't negatively impacted because of what's happened.

### *Removal of the overdraft*

Mr B told us he felt BOS had treated him unfairly and caused him distress by removing his overdraft without warning, which caused him to go overdrawn with no way to pay for food or travel. I recognise that this would have been upsetting for Mr B as it would have been a shock to find that he didn't have the money available to him that he expected.

However, BOS have told us that it's part of their internal process when they're asked to freeze interest and charges – as they were in this case by the charity – to remove any overdraft facility. I've also seen that when Mr B contacted BOS and explained his situation that they arranged for him to access £200 in a branch a couple of days later. So, whilst I understand the timing wasn't ideal for Mr B, I don't think BOS acted unreasonably by removing his overdraft as it was in his best interests to do so.

### *Next steps*

I understand that Mr B's entered into a repayment plan with BOS to start repaying the outstanding balance. But if he still feels this isn't affordable, he should contact BOS to see what else they can do to help – as they should treat him positively and sympathetically as he's in financial difficulty.

### **Putting things right**

To put things right, I think BOS should do the following:

- Remove all interest and charges payable under loan four which was taken out in June 2018;
- Remove any adverse information about the loan four taken out in June 2018 from Mr B's credit file.

I also understand that Mr B's entered into a repayment plan to repay the outstanding balance. But if he still feels this isn't affordable, he should contact BOS to see what else they can do to help – as they should treat him positively and sympathetically if he's in financial difficulty.

### **My final decision**

My final decision is that I uphold this complaint. Bank of Scotland Plc must follow the instructions I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 19 February 2021.

Jenny Lomax  
**Ombudsman**