

The complaint

Mr M complains that Bank of Scotland plc trading as Halifax (Halifax) provided lending to him through a credit card which was unaffordable and irresponsible.

What happened

Mr M took out a Halifax credit card in 2015 with a limit of £1500.

Halifax increased this limit in June 2016 to £1900.

Mr M complains that this increase shouldn't have been granted as credit checks should have shown he had longstanding debts and, at the time the increase was given, he was vulnerable due to poor mental health. He says that the increase in lending contributed to the level of his debt and a cycle of unsustainable and recurring debt.

Halifax issued their final response on 9 February 2021. They didn't uphold Mr M's complaint. They said that there was no evidence to suggest they should have known he was in difficulty, and that his account conduct was good with payments of more than the minimum amount and missed payments brought quickly up to date.

Our investigator upheld Mr M's complaint. She thought that although the checks were proportionate when the card was taken out in 2015, when the increase in credit limit was applied in 2016 Halifax had account history which should have indicated to them that Mr M was in financial difficulties and the lending was unsustainable.

The investigator recommended, in brief, that Halifax refund interest, fees and charges from June 2016 onwards. If there was any excess this was to be refunded with interest and adverse credit information removed, and if there was still a deficit, they were to negotiate a repayment plan.

Halifax responded and agreed to the resolution, but Mr M has asked for an Ombudsman's decision for us to consider awarding additional compensation for distress and inconvenience and so this has come to me to review.

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.

Unaffordable and irresponsible lending complaint

I have to look at what checks Halifax carried out when it made the decision to approve the lending and consider whether those checks were proportionate and in accordance with the Consumer Credit sourcebook (CONC) 5.2. This involves looking at what information was available to the lender at the time, and whether based on that information, they should have done further checks to help them understand if the lending was sustainable.

Halifax have said that at the time of the initial application for a credit card in April 2015 they looked at Mr M's self-declared income and his commitments, including information from his credit file about current debt. They were satisfied that he had sufficient disposable income to meet repayments on a credit card, and so the application was granted. I have seen the evidence that was used, and I am satisfied that the checks undertaken here were proportionate, and that there was no indication that the lending was unaffordable.

However, the account statements show that following receipt of the card in May 2015, Mr M went up to and over his £1500 limit by June 2015, having spent £1400 on one gambling website in one day and also made numerous cash withdrawals. His subsequent account management is poor following that with several instances of exceeding his credit limit and making late payments. He did make contact with Halifax regularly to explain these instances and make payments, but there were also further numerous gambling transactions and cash withdrawals. This pattern of transactions should have acted as a warning to Halifax that Mr M was someone not in control of his credit spending.

In December 2015 Halifax reduced Mr M's credit limit to £1400. They have explained to us that this reduction is something that can be done by the system based on the management of the account, such as when a customer goes over their limit or misses a payment. Despite having made this reduction due to poor account management and being in possession of information to suggest further lending may not be affordable, Halifax increased Mr M's credit limit in June 2016, only six months after the decrease.

I think that Halifax should have taken into account what they knew about Mr M's borrowing when they were making a decision to increase his credit limit. Had they done so I don't think that they would have increased his borrowing as the history indicates that additional borrowing wasn't affordable or sustainable.

Halifax say that the additional lending was approved because it was affordable and because Mr M would have benefitted from an increased credit limit more appropriate to his needs which would avoid fees. However, increasing the credit limit of someone who is struggling to keep within the current credit limit and is spending any available balance on gambling isn't, in my opinion, responsible lending.

And so, in view of the above, I agree with the investigator that this decision to increase lending in June 2016 was unaffordable and irresponsible.

Distress and inconvenience

Mr M has asked that I consider the impact on his mental health as a result of the additional lending and make an additional award for distress and inconvenience.

Halifax say that they were unaware of Mr M's mental health issue. I have viewed all Halifax's notes and I have seen no evidence to indicate that they were made aware by Mr M despite his quite frequent contacts with them regarding late payments.

I am sorry that Mr M has struggled mentally and financially, and I understand that the pressure of the outstanding debts will have impacted this. However, I am pleased to see that Halifax are now offering appropriate support. I have thought about whether I should award an additional amount for distress and inconvenience, but although I agree that the lending decision in June 2016 was flawed, I can't say that the overall difficulties that Mr M has experienced are solely down to the £600 credit limit increase which was put in place in June 2016. I think that the resolution proposed by the investigator puts Mr M back in the position he would have been in if the additional lending had not been given and is a fair resolution.

Putting things right

In view of the reasoning I have given above, I agree with the investigators recommendations for putting things right and direct Halifax to do the following:

- Re-work Mr M's current credit card balance so that all interest, fees and charges applied to it from June 2016 onwards are removed. In the instances where the account was paid off and built back up, Halifax should calculate and refund the interest that's incurred between the limit of £1,400 and the most recent limit of £1,900.

and

- If an outstanding balance remains on the credit card once these adjustments have been made, Halifax should contact Mr M to arrange a suitable repayment plan for this. If it considers it appropriate to record any negative information on Mr M's credit file, it should backdate this to June 2016.

or

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr M, along with 8% simple interest on the overpayments from the date when they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then Halifax should remove any adverse information from Mr M's credit file

My final decision

My decision is that I am upholding Mr M's complaint and directing Bank of Scotland plc, trading as Halifax to undertake the actions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 April 2022.

Joanne Ward
Ombudsman