

## **The complaint**

Mr P has complained about Bank of Scotland UK Plc (Trading as Halifax)'s decision to agree to offer him an overdraft in January 2020 and then to increase that overdraft limit up to £3,500 over the next month or so. He says Halifax was aware that he suffered with a gambling addiction and so should not have agreed to offer him an overdraft facility at all.

## **What happened**

Halifax looked at Mr P's complaint and while it didn't think it had been irresponsible to lend to him, it nonetheless agreed to refund the fees and interest he had paid on his overdraft since the facility was put in place on 26 January 2020. It said it would use this refund to reduce his outstanding balance and then also reduce his arranged overdraft to reflect that new balance. Halifax also offered various ways it could assist him with his gambling addiction and with managing his account going forwards. Mr P remained unhappy and so referred his complaint to our service.

One of our adjudicators looked at Mr P's complaint. She said that while Halifax had done the right thing in offering to refund charges from January 2020, she felt it also shouldn't have continued to provide Mr P with an overdraft after it became aware of his difficulties in April 2020. So the adjudicator recommended that the further charges applied after Halifax's initial offer should also be refunded. She also set out that Halifax should contact Mr P to ensure an affordable repayment plan was agreed for the outstanding balance, and that any adverse information that was due to be recorded about the remaining outstanding balance should be backdated to reflect what would have happened if Halifax had started to take action regarding Mr P's account in January 2020.

Halifax responded to set out how it would resolve Mr P's complaint in line with the adjudicator's findings. It noted that no fees or interest had been applied to Mr P's account from when it first made its offer of a refund in June 2020 until August 2021. But Halifax confirmed it would agree to refund the fees incurred after August 2021 as set out by the adjudicator. Halifax also explained that it would use this refund to reduce Mr P's overdrawn balance and would then issue him with 30-day's notice that it would be removing his overdraft facility. If Mr P cannot repay the overdrawn balance within 30 days then Halifax explained that it would pass his account to its collections department where an affordable repayment plan could be agreed. Halifax did though note that this could result in information about this account being recorded on Mr P's credit file, but confirmed that as per the adjudicator's instructions this information would be backdated to reflect what would have happened if Halifax had started to take action regarding this account in early 2020.

Mr P disagreed with what Halifax had suggested. He feels it is unfair for Halifax to remove his overdraft limit and potentially record negative information on his credit file given his difficult personal circumstances. As an agreement could not be reached, this complaint has been passed to me for an ombudsman's 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 considered everything provided, I'm satisfied that what Halifax has already offered to do to put things right is a fair way to resolve this complaint. I'll explain the reasons for my decision.

I agree with our adjudicator that Halifax should not have continued to offer Mr P his overdraft once it became aware of his gambling problem and financial difficulties in April 2020, so I think it's fair that as well as the refund it had already offered, Halifax should also refund the further fees and interest applied after they started being once again added to Mr P's account in August 2021.

But I also think that the correct course of action now is for Halifax to take steps to remove Mr P's current overdraft limit and agree an affordable repayment plan for Mr P to pay back his overdrawn balance. I appreciate that the removal of the overdraft limit seems to Mr P like a particularly harsh step for Halifax to take. But I wouldn't expect a lender to keep an account open with an overdrawn balance (which would continue to incur overdraft interest and charges) when there is no prospect of that overdrawn balance being repaid in a reasonable period of time.

Removing the overdraft facility and passing the account to the bank's collections department means that interest and charges on the remaining balance can be stopped and an affordable long-term repayment plan can be agreed. This seems a reasonable step for the bank to take in the circumstances. And if, as a result of this action, Halifax does record any adverse information on Mr P's credit file, I also don't think that would be an unreasonable step to take. A credit file is intended to show a true and accurate reflection of a borrower's financial position, so if Mr P has an outstanding debt with Halifax that he cannot afford to repay then I don't think it's unreasonable that his credit file should reflect that.

Bearing in mind the above, I'm satisfied that what Halifax has already offered to do to resolve this complaint – including the removal of Mr P's overdraft facility so that steps can be taken to agree an affordable repayment plan – is fair in the circumstances. Once Halifax has taken the steps set out in its offer, I would suggest to Mr P that he make sure he continues to communicate with Halifax to agree a repayment plan that is affordable to him.

I appreciate that this will be very disappointing for Mr P. But I hope he'll understand the reasons for my decision.

### **My final decision**

For the reasons I've explained, I'm upholding this complaint, but think that what Bank of Scotland UK Plc (trading as Halifax) has already offered to do to put things right is fair, so I don't think that it needs to do anything more

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 21 December 2021.

Sophie Mitchell  
**Ombudsman**