

The complaint

Mr L says that Bank of Scotland plc trading as Halifax ("Halifax") acted irresponsibly by allowing him to increase his overdraft limit to £3,000.

What happened

One of our adjudicators looked into Mr L's concerns and didn't think there was anything within the credit checks that should have led to Halifax questioning the lending and didn't think Halifax had done anything wrong or treated Mr L unfairly.

Mr L disagreed, he says if Halifax had looked at his bank statements it would've seen large amounts of spending on gambling and so the complaint was passed to an ombudsman for a final 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.

Just to be clear this decision only deals with Mr L's complaint about his overdraft and increased limit. I haven't looked at any other credit provided to Mr L by Halifax.

We've set out our general approach to complaints about irresponsible lending - including the key rules, guidance and good industry practice - on our website. And I've referred to this when deciding Mr L's complaint. Having considered everything provided, I've decided not to uphold Mr L's complaint. I'll explain why in a little more detail.

Halifax needed to make sure that it didn't lend irresponsibly. In practice, what this means is Halifax needed to carry out proportionate checks to be able to understand whether Mr L would be able to repay what he was being lent before providing any credit to him. Our website sets out what we typically think about when deciding whether a lender's checks were proportionate.

Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship. But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty.

I've kept all of this in mind when thinking about whether Halifax did what it needed to before agreeing to Mr L's overdraft. Mr L was given what was an open-ended credit facility. So overall this means the checks Halifax carried out had to provide enough for it to be able to understand whether Mr L would be able to repay his overdraft within a reasonable period of time.

Halifax says Mr L had an initial overdraft of £200 in August 2016 which increased to £3,000 by August 2017. No further increases were approved. All overdraft limit increase applications were fully credit scored taking into account information Mr L provided about his income and how Mr L had managed his accounts held with it, as well as information held by other lenders provided through credit reference checks. And based on this information Halifax was satisfied his score was high enough to provide him with the overdraft facility and limit he requested.

I accept that Mr L's financial position may well have been worse than the credit check carried out showed or in any information he disclosed to Halifax at the time. And it is possible that further checks might have told Halifax this. But Halifax was reasonably entitled to rely on the credit check it carried out. And given there wasn't any adverse information shown on the credit check, or significant outstanding debts elsewhere and the account showed a credit balance on a monthly basis with regular transfers in, I think Halifax's checks went far enough.

So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly. Mr L says Halifax should've seen the numerous gambling transactions leaving his account. But just having a cursory look at Mr L's statements it shows that the gambling only increased after Halifax had approved the maximum limit of £3k and up until that point most months Mr L brought his account into credit.

So I don't agree that Halifax acted irresponsibly by allowing Mr L to increase his overdraft limit. Halifax carried out the appropriate credit check on Mr L and were entitled to rely on the information provided to it when assessing Mr L's overdraft applications. And given the credits going into the account, I don't think that it was unreasonable for Halifax to conclude Mr L would be able to repay the additional funds within a reasonable period of time.

This means that I don't agree Halifax provided Mr L with an overdraft unfairly or irresponsibly. That said, even though Mr L's overdraft wasn't approved irresponsibly, Halifax still won't have acted fairly and reasonably towards Mr L if it applied any interest, fees and charges to Mr L's account in circumstances where it was aware, or it ought fairly and reasonably to have been aware Mr L was experiencing financial difficulty.

So I've considered whether there were instances where Halifax didn't treat Mr L fairly and reasonably. I don't think that Halifax did treat Mr L unfairly or unreasonably though. I say this because having looked at Mr L's statements I can't see anything to suggest that Halifax ought to have realised he might have been experiencing financial difficulty prior to it being notified of this.

I accept that Mr L was using his overdraft regularly. But it is clear that funds were going into the account which reduced the outstanding balance and at times brought it into credit. Equally while I'm not seeking to make retrospective value judgements over Mr L's expenditure, nonetheless the transactions leaving the account were non-committed, non-contractual and discretionary.

Furthermore, the amount being credited to Mr L's account each month didn't indicate that there was no reasonable prospect of him seeing a credit balance at any stage either. I accept neither of these things in themselves mean that Mr L wasn't experiencing financial difficulty. But there isn't anything in these transactions in themselves which ought to have alerted Halifax to any potential financial difficulty.

So, in these circumstances I don't think that it was unreasonable for Halifax to proceed with adding the interest, fees and charges it did until Mr L got in touch. And I don't think that Halifax treated Mr L unfairly or unreasonably which means that I'm not upholding this complaint.

My final decision

For the reasons I've explained, I'm not upholding Mr L's complaint.

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

Caroline Davies
Ombudsman