

The complaint

Mr M complains that Bank of Scotland plc trading at the time as Halifax irresponsibly gave him five loans that he couldn't afford. For simplicity, I will refer to the business throughout as 'Halifax'.

What happened

In December 1994, Mr M applied for a loan with Halifax. He was given a loan of £1,000 and the monthly repayment was £54.06. Each subsequent loan seems to have consolidated the previous loan. In March 1995 Mr M was given a loan of £2,000 and the monthly repayment was £78.20. In July 1995 Mr M was given a loan of £3,000 and the monthly repayment was £114.74. In March 1996 Mr M was given a loan of £4,500 and the monthly repayment was £155.30. In July 1996 Mr M was given a loan of £8,300 and the monthly repayment was £227.98.

In 2020, Mr M complained to Halifax to say that the accounts shouldn't have been opened for him because they weren't affordable.

Our adjudicator didn't recommend the complaint be upheld. Mr M didn't agree. 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.

I've read and considered the whole file, but I'll confine my comments to what I think is relevant. If I don't comment on any specific point it's not because I've failed to consider it but because I don't think I need to comment on it in order to reach what I think is the right outcome in the wider context. My remit is to take an overview and decide what's fair "in the round".

During this investigation, Mr M has raised another complaint about whether Halifax made sufficient adjustments for him in their dealings with him. As that is the subject of a separate complaint, it forms no part of this decision. But in passing, I was sorry to hear of the issues that have affected Mr M in his life.

Halifax will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don't consider it necessary to set all of this out in this decision. Information about our approach to these complaints is set out on our website.

Mr M's complaint is that Halifax made credit available that was unaffordable. Halifax has explained that it carried out a credit check to determine the amount of credit it was able to offer. And it also had notice of Mr M's management of the accounts he had with them. It's possible that Halifax failed to make adequate checks before providing Mr M with credit. But

even if that's true, I don't think better enquiries would have caused Halifax to think the credit was unaffordable.

I say this because the initial loans were reasonably modest and the monthly payments throughout his lending history for that credit were relatively modest. I've seen insufficient evidence to think that there was much or any adverse information on Mr M's credit file immediately before each lending decision was made that would have made the lending seem unreasonable. And, from his current account bank statements from the time, there was nothing in the management of Mr M's bank account that would have made the lending unreasonable. And throughout the period in which lending decisions were made to provide these loans (December 1994 to July 1996), Mr M's management of his loans was without fault.

I have had sight of Mr M's current account statements and they seem to show that the amount leaving the account was broadly similar to the amount entering it over time. And the statements show regular credits for income. So, on the face of it, there was insufficient evidence to think that Mr M was not managing his finances. And the loans were modest in size and whilst they grew, I do not think they reached an unaffordable level, indeed they were afforded. Mr M has told us his issues compounded after the time of the last lending decision in 1996

Latterly, Mr M has told us that the borrowing was in part to fund a gambling habit. Mr M explained that there are no entries on his current account for it as he withdrew money in cash to make the bets. It is disappointing but not surprising that Mr M has not kept his betting slips from all those years ago. But it's important to me that Mr M understands that I have no reason to disbelieve him when he says he was spending his money that way.

But my job is to establish whether Halifax performed sufficient checks that the lending was affordable, and as I've already said, I think it was. And I have to look at the information that was available to Halifax at the time it made its lending decisions and not to use hindsight. Halifax was not made aware of the habit at the time the loans were made.

I must also consider the information that could have been available to Halifax had it made more searching proportionate checks. And in this case, even had it checked Mr M's bank account details for information about how he was spending his money, it would have seen no evidence to think he was using it for gambling, as Mr M was withdrawing cash to make his bets.

In the same way, Mr M has said that he was in financial difficulty and had relied on his family to maintain his loan repayments at times and to keep his current account in order. But the point is that at the time of the lending decisions, Halifax would have had insufficient sight of that. Halifax would have seen that the current account was being maintained in order and that he was making his loan repayments.

So, having considered all the submissions made in this case, I have seen insufficient evidence to think that more thorough affordability checks would have led Halifax to think that the credit it provided Mr M was unreasonable.

I know that Mr M will be disappointed with my decision, in itself and because he has invested time and energy in pursuing his complaint. But I want Mr M to know that I considered all the submissions made in this case, including those from the parties who have provided their assistance to him in this matter. But having considered all the submissions in this case, particularly those at the time of the lending decisions, I have not found sufficient evidence to uphold this complaint.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 September 2022.

Douglas Sayers
Ombudsman