

## **The complaint**

Mr N has complained that Bank of Scotland plc trading as Halifax acted irresponsibly when it provided him with a loan for £3,000 in August 2017.

## **Background**

Mr N applied for the loan online in August 2017. He has said that the loan was approved very quickly, and the funds released into his account without anyone from the bank contacting him to discuss the loan, his current financial situation or whether he could afford the repayments. Mr N has explained at the time of application he was gambling excessively and spending money beyond his means. He also applied for additional credit from Halifax around this time including an overdraft and a credit card.

Mr N believes it should've been apparent to Halifax that he wasn't managing his finances well and that he would have problems repaying the loan. Mr N did eventually fall into arrears on the loan in 2018 and entered a debt management plan in 2019. He thinks the online application process was too easy and the business failed to adequately check his circumstances before providing him with a sizeable loan.

Halifax has said that it did run all of the necessary affordability checks before approving Mr N's loan and that it was possible to do this without having to speak to him directly. It believes the loan was affordable to Mr N at the time of application and has pointed out that it was unaware he was gambling or that this was causing him problems. It has said that it's not the role of the bank to monitor the individual transactions a customer makes and that gambling is a legal activity, and it would be inappropriate for the bank to assume someone had an addiction just because they gambled regularly. Therefore, it didn't think it had done anything wrong when it provided Mr N with the loan and didn't uphold his complaint.

Mr N remained unhappy and so he brought his complaint to our service.

I issued a provisional decision on 5 August 2022 upholding Mr N's complaint and recommending that Halifax refund all of the linked interest and charges that Mr N paid in relation to the loan and apply 8% interest to that amount.

Both Mr N and Halifax have responded to the provisional decision agreeing with the suggested outcome. Therefore I find no reason to change the findings set out in that decision but will repeat them below for the sake of clarity.

## **My findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've set out our general approach to complaints about unaffordable/irresponsible lending, including the key rules, guidance, and good industry practice, on our website. And I've referred to this when deciding Mr N's complaint.

Halifax needed to make sure that it didn't lend irresponsibly, in this case providing Mr N with credit in the form of a £3,000 loan. In practice, what this means is Halifax needed to carry out proportionate checks to be able to understand whether Mr N 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.

It is important to clarify that these checks are considering two separate things, whether or not the loan appears to be affordable, and also whether or not the repayments are likely to be sustainable.

Halifax has said that at the time of lending Mr N had a declared income of approximately £1,400 a month and combined fixed outgoings of about £500 a month. That means that on paper it appeared as though Mr N had a monthly disposable income of approximately £900 a month. Halifax has also said that at time Mr N was using his overdraft, which was set with a limit of £2,600, but not exceeding this and was paying the associated fees in full every month. In addition there was no evidence of any missed direct debits or standing orders going unpaid either. Therefore, Mr N's application passed all of its checks and the loan was approved.

I agree that at the time of application the loan appeared to be affordable and so Mr N would've passed the first part of the test. However, Halifax also needed to consider how Mr N had been managing his existing lines of credit in order to ensure any lending was also sustainable.

We asked both Halifax and Mr N to provide us with information from his credit file at the time of application in order to consider this part of the test. Unfortunately, due to the passage of time neither party was able to provide this. Although Halifax has said that it wouldn't have provided the loan if there was anything of concern in the information it collated at that time.

As Mr N's credit information wasn't available Halifax instead provided us with copies of his bank statements from early February 2017 which show how his account was maintained in the six months leading up to the loan application in late August 2017. Having reviewed these I note that throughout that time Mr N was consistently overdrawn and never once got his account back into credit. This was despite receiving a salary into this account. Overdrafts are an open-end, running account agreement and can be removed at short notice by a lender and so it's concerning to see that Mr N appeared to be relying on his to repay all of his monthly outgoings. And that means that in reality he didn't have any disposable income he could rely on at the time he applied for his loan.

It is also worth noting that had Halifax queried why Mr N was relying so heavily on his overdraft facility at the time it would've also seen that he was making daily payments to a single merchant. That merchant was an online casino and looking just at the days between the start of August to the date he applied for his loan, Mr N had gambled approximately £795 through that merchant. Which equated to over half his declared monthly income and also nearly all of his declared disposable income. This is just representative of the gambling spend in the weeks before he applied for the loan. There is evidence of frequent gambling every month in the statements Halifax sent us; both before and after Mr N received the loan. Had Halifax considered this information, which was immediately available to it, I don't believe it would've approved Mr N's loan.

I've also considered the fact that Halifax has said after the funds of the loan, which Mr N had said was for home improvements, were released into the account, Halifax immediately reduced Mr N's overdraft limit to £400 as the loan put the account into credit for the first time in over six months. This effectively means the loan was used for debt consolidation as there were no funds left for home improvements. The remainder was used to gamble and within a

week Mr N was overdrawn again and by October was charged an additional £30 for exceeding his new limit by less than £8.

Therefore, I am unable to agree with Halifax's findings that the loan was affordable for Mr N. And while I agree it would be inappropriate for a bank to make assumptions about whether or not its customers have potential gambling addictions, I think there was sufficient evidence available to the bank for it to conclude that Mr N was not managing his finances well and that his gambling habits at the time were likely contributing to that. Ideally the bank would've queried this with Mr N and offered support, but at the very least it shouldn't have approved his application for more credit thus making a difficult situation worse.

In regard to Mr N's complaint that no one from Halifax contacted him to discuss his application prior to approving the loan, this isn't unusual for online applications. The amount of direct interaction between customers and their banks is reducing as we all become increasingly more reliant on technology and remote services. So, I don't think that in general someone being able to apply for a loan, and have it approved, without speaking to a representative is necessarily indicative of a problem. However, in Mr N's case I think there was enough evidence to show he wasn't managing his finances well and so I am upholding his complaint on that basis but not because of the lack of human communication during the application process.

### **Putting things right**

As I think Halifax was wrong to approve Mr N's loan, I need to consider what it should now do to put things right. Mr N has said he wants Halifax to refund the loan amount in full as well as all associated charges and fees.

I don't agree that Mr N should have the capital he borrowed refunded to him. After all this was ultimately used to repay his overdraft at the time and so he did have some benefit from the funds. However, I do think Halifax should refund all of the linked interest and charges that Mr N paid in relation to this loan. And it should apply 8% interest to that amount.

I know Mr N struggled to repay the loan and entered a debt management plan before this happened. So, I don't think it's appropriate in these circumstances for Halifax to remove the loan information from Mr N's credit file and I so I'm not directing it to do that.

### **My final decision**

For the reasons set out above I am upholding Mr N's complaint against Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 19 September 2022.

Karen Hanlon  
**Ombudsman**