



The complaint

Ms M has complained that Bank of Scotland plc trading as Halifax ("Halifax") acted unfairly by continuing to apply charges to her account when she was in financial difficulty.

What happened

Ms M complained to Halifax that the fees it applied to her account caused her financial difficulty. Halifax says the charges were applied correctly in line with the terms and conditions of the account and didn't uphold the complaint. And as Ms M was dis-satisfied she referred the complaint to our service.

Ms M's complaint was considered by one of our adjudicators. They thought that Halifax ought to have realised that Ms M was experiencing financial difficulty by August 2017 and so shouldn't have added any more interest, fees and charges from this point onwards.

In response to this Halifax agreed that it should've stepped in to help but at the later date of January 2019. It says prior to this Ms M was able to manage her overdraft and that her spending was excessive on non-essential items. So Ms M's complaint was passed to an ombudsman for a 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 carefully considered everything provided, I'm in agreement with our adjudicator that Halifax acted unfairly when it continued charging overdraft interest and associated fees on Ms M's overdraft from August 2017. By this point, it ought to have been clear that Ms M was in no position to sustainably repay what she owed within a reasonable period of time.

It was clear that Ms M was having difficulty managing her money. Ms M hadn't seen or maintained a credit balance for an extended period of time. Halifax's own literature suggests that overdrafts are for unforeseen emergency borrowing not prolonged day-to-day expenditure.

Ms M's statements show that even after her regular incoming credits came in if it was enough to bring her account into credit it was only for a very short period of time before she was back in overdraft after she paid essential bills.

I accept occasionally there was what appears to be the odd spend on non-essential items but in the months leading up to August 2017 the vast majority of spending was on essential bills such as utilities, food and paying off credit cards which kept her overdrawn.

So I think that Ms M's overdraft usage should have prompted Halifax to have realised that Ms M wasn't using her overdraft as intended and shouldn't have continued offering it on the same terms. In these circumstances, it ought to have been apparent that Ms M was at a significant risk of experiencing financial difficulty and so should have been treated with

forbearance rather than having had even more interest, fees and charges added to her overdraft. As Halifax didn't react to Ms M's overdraft usage and instead continued charging in the same way, I think it failed to act fairly and reasonably.

Ms M ended up paying additional interest, fees and charges on her overdraft and this ended up exacerbating difficulties she already had in trying to clear it. So I think that Halifax didn't treat Ms M fairly and she lost out because of what Halifax did wrong. And this means that it should put things right.

Putting things right

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Ms M's complaint for Halifax to put things right by:

- Reworking Ms M's current overdraft balance so that all interest, fees and charges applied to it from August 2017 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Halifax should contact Ms M to arrange a suitable repayment plan, Ms M is encouraged to get in contact with and cooperate with Halifax to reach a suitable agreement. If it considers it appropriate to record negative information on Ms M's credit file, Halifax should reflect what would have been recorded had it started the process of taking corrective action on the overdraft from August 2017. Halifax can also reduce overdraft limit by the amount of refund if it considers it appropriate to do so, as long as doing so wouldn't leave Ms M over their limit.

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 Ms M along with 8% simple interest† on the overpayments from the date 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 Ms M's credit file.

† HM Revenue & Customs requires Halifax to take off tax from this interest. Halifax must give Ms M a certificate showing how much tax it has taken off if they ask for one.

My final decision

For the reasons I've explained, I'm upholding Ms M's complaint. Bank of Scotland plc should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 19 October 2022.

Caroline Davies
Ombudsman