DRN-3753774

The complaint

Mrs O complains that Bank of Scotland plc (BoS) irresponsibly increased the limit on her credit card on three occasions, and that it unreasonably declined her application for a new credit card.

What happened

Mrs O applied for a credit card from BoS in October 2015. She was provided with a card with a credit limit of £4,000. Since then the limit increased three times as follows:

21/4/2017 increase to £4,500
4/8/2018 increase to £5,500
17/7/2019 increase to £6,000

Mrs O cancelled the card in February 2021, having paid it off. However she then applied for a new card in September 2021, when her application was declined. She complained about this as she said her credit status was far worse when BoS increased the limit on her card. She applied again but was advised that a new application couldn't be made within 6 months of the previous one. She complained to BoS, and later complained about the way her complaint was dealt with.

BoS said her application was declined because she didn't meet its lending criteria at the time. It denied that it had increased the credit limit irresponsibly.

On referral to the Financial Ombudsman, BoS advised that it no longer had any details of the checks it had carried out at the time of the credit limit increases. Our investigator said that BoS hadn't made a fair lending decision in respect of the credit limit increases, and that it should refund all interest and charges from the date of the first increase. She explained that it should have considered Mrs O's bank statement which would have shown that she was struggling financially.

BoS replied that it had now in fact obtained the details of the information it considered at the time of granting the increases. It said that according to its checks, for which it used ONS (Office for National Statistics) data, the increase in limit was affordable for each increase.

Our investigator responded that BoS shouldn't have relied just on statistical information and should have considered the bank statements.

I issued a provisional decision. In it I said that I thought BoS had made fair lending decisions in respect of the 2017 and 2018 increase, but not in respect of the 2019 increase.
BoS accepted my provisional findings. It pointed out that the balance on the account never exceeded £5,500 so technically Mrs O would receive no payment.

Mrs O didn't accept the decision, and couldn't understand why my decision was so different from the adjudicator's view.

The matter has been passed to me for further consideration.

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.

My provisional findings are set out below in italics:

"*Considering the relevant rules, guidance, and good industry practice, I think the questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:*

- *Did BoS complete reasonable and proportionate checks to satisfy itself that Mrs O would be able to repay the credit advanced in a sustainable way?*

- *If not, would those checks have shown that Mrs O would have been able to do so?*

- *Bearing in mind the circumstances at the time of each application, was there a point where BoS ought reasonably to have realised it was increasing Mrs O's indebtedness in a way that was unsustainable or otherwise harmful and so shouldn't have provided further credit?*

declining of September 2021 application

Mrs O says that at the time of applying for the new credit card her credit status was much better than it had been at the time of the credit limit increase in 2019. BoS said she wasn't eligible for a new card according to its lending criteria at the time. It pointed out that its criteria changed regularly and the same criteria may not apply in 2021 as it did in earlier years.

Banks are free to lend to customers and apply what criteria they wish. For a new card its criteria may be different than for increasing the limit on a card, as effectively it would be lending more from the start. So as long as the bank doesn't discriminate unfairly (and I've seen no evidence that it did), I can't make any finding about the declining of an application.

Mrs O says this must show that BoS had previously lent to her irresponsibly, so I've gone on to consider this.

2017 increase

This was an increase applied by BoS (i.e. not on Mrs O's application). According to BoS's records, it assessed her living expenses according to ONS data, and said that after taking her credit commitments into account she would have had about £800 disposable income. I understand the point that rent of £250 seems a bit low, but BoS says it took it from an internal model which estimates average rents and house prices for the area. Whilst the rent figure appears higher in Mrs O's bank statements, I don't think there was anything in the information BoS had that would have alerted it to look at bank statements. Her bank account wasn't overdrawn at any time and her card account was kept well below the limit. Her credit commitments were about 25% of her income and she appeared to have sufficient disposable income.

Finally, I've not seen that Mrs O has complained tha affordable to her. I think that BoS acted fairly in applying this increase.

2018 increase

BoS said that Mrs O applied for this increase, requesting a £7,000 limit. It granted the increase, though only by £1,000 up to £5,500. It said that Mrs O had declared the rent she was paying at £309 a month. her credit commitments had gone down – to about 20% of her income, and it said she had a monthly disposable income of £850.

Even if the disposable income figure was too high, I still don't see that BoS needed to carry out further investigations of Mrs O's financial circumstances, given the information shown by its checks. Again her bank account wasn't overdrawn and she kept her card account well.

Again Mrs O didn't complain that this was unaffordable to her. I think BoS acted fairly in applying this increase.

2019 increase

I think Mrs O's position had changed by this time. She didn't ask for the increase. but her income had now remained just about the same for two years. But her card balance, from being £0 at the time of the last increase had gone up to £2,904. Her overall monthly credit commitments had gone up to £644, now about 35% of her income. I haven't seen any breakdown of the commitments between revolving credit (credit cards, store cards) and any other credit (e.g. loans) but I think BoS's practice of applying 3.5% of the balance on credit/store cards as an estimate of monthly commitments is too conservative. I think a figure of 5% is more reasonable if the card is to be paid off within a reasonable length of time. Effectively BoS should have taken into account in its calculations that Mrs O could potentially be paying up to further £3,000 of credit.

The monthly disposable income estimated by BoS had more than halved by this date. So whilst her account was still kept below the limit, I think that with such a high credit repayment to income ratio, BoS should not have issued this further increase. As it was its decision to offer the increase I don't imagine it would have decided to carry out any further financial assessment like considering bank statements.

I don't think BoS made a fair lending decision in this respect. It should deal with the account as I've set out below

complaint handling

Mrs O has said that BoS acted unfairly by taking 5 weeks to log her complaint upon receipt of it. She was also frustrated at having to spend nearly an hour on the phone when she attempted to contact the applications team. I see that BoS agreed that this serviced fell short of its normal standards and, by way of resolution paid Mrs O £40 for the upset and inconvenience caused. I think that bearing in mind our awards in similar cases, this was reasonable."

I note what Mrs O has said, though I should point out that my decision was based on a complete review of all the evidence. At the time of the adjudicator's view BoS hadn't provided any information about its reviews at the time of each increase, and I can understand Mrs O's frustration in that respect. I think I've set out clearly set out my reasoning in my provisional findings.

As neither party has provided any further evidence in response to my provisional findings those findings are now final and from part of this final decision. In respect of any refund

BoS should set out clearly to Mrs O if the balance on the account never exceeded £5,500. But if that's correct then I'm afraid Mrs O won't get any financial benefit as a result of this decision.

Putting things right

As I don't think BoS should have increased Mrs O's credit limit to £6,000, I don't think it's fair for it to impose charges on any balances which exceeded the previous limit of £5,500.

Therefore, BoS should:

- Rework the account removing all interest and charges that have been applied to balances above £5,500.
- If the rework results in a credit balance, this should be refunded to Mrs O along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement.
- Remove all adverse information, if any, recorded after 17 July 2019 regarding this account from Mrs O's credit file.

*HM Revenue & Customs requires BoS to deduct tax from any award of interest. give Mrs O a certificate showing how much tax has been taken off if she asks for one.

My final decision

I uphold the complaint in part and require Bank of Scotland plc to provide the remedy set out under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 11 November 2022.

Ray Lawley
Ombudsman