

## **The complaint**

Miss M has complained that Bank of Scotland plc ("BOS") acted irresponsibly by continuing to apply changes to her account when she was in financial difficulty.

## **What happened**

Miss M complained to BOS about the excessive charges she was incurring on her overdraft when she was in financial difficulty. BOS didn't uphold the complaint. And as Miss M was dis-satisfied she referred the complaint to our service.

Miss M's complaint was considered by one of our adjudicators. They thought that BOS ought to have realised that Miss M was experiencing financial difficulty by May 2020 and so shouldn't have added any more interest, fees and charges from this point onwards. BOS disagreed – it says it offered support during the pandemic and that Miss M's income was sufficient to reduce the overdraft with different account management or spending.

So the case 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.

BOS will be familiar with all the rules, regulations and good industry practice we consider when looking at whether a bank treated a customer fairly and reasonably when applying overdraft charges. So I don't consider it necessary to set all of this out in this decision.

Having carefully considered everything provided, I'm intending to find that BOS acted unfairly when it continued charging overdraft interest and associated fees from May 2020. By this point, it ought to have been clear that Miss M was in no position to sustainably repay what she owed within a reasonable period of time. By this point, Miss M was hardcore borrowing. In other words she hadn't seen or maintained a credit balance for an extended period of time. BOS's own literature suggests that overdrafts are for unforeseen emergency borrowing not prolonged day-to-day expenditure.

Miss M was already clearly struggling to reduce or manage her overdraft limit with BOS. A cursory look at her statements show that even after Miss M's salary was paid she would still be overdrawn and that once she had paid her bills, she would be right back at the top of her limit within days. I accept there was some discretionary spending on the account but overall the vast majority of spending was on essential bills and day to day living. I also accept that BOS offered some help for three months in 2020 in that the first £500 of Miss M's overdraft of £1,550 was interest free. But this help was temporary and didn't nearly go far enough.

So I think that Miss M's overdraft usage should have prompted BOS to have realised that Miss M wasn't using her overdraft as intended and shouldn't have continued offering it on the same terms. As BOS didn't react to Miss M's overdraft usage and instead continued charging in the same way, I think it failed to act fairly and reasonably.

Miss 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 BOS didn't treat Miss M fairly and she lost out because of what BOS 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 Miss M's complaint for BOS to put things right by:

- Reworking Miss M's current overdraft balance so that all interest, fees and charges applied to it from May 2020 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made BOS should contact Miss M to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Miss M's credit file, it should reflect what would have been recorded had it started the process of taking corrective action on the overdraft on May 2020.

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 Miss 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 BOS should remove any adverse information from Miss M's credit file.

† HM Revenue & Customs requires BOS to take off tax from this interest. BOS must give Miss 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 Miss 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 Miss M to accept or reject my decision before 10 January 2023.

Caroline Davies  
**Ombudsman**