

## **The complaint**

Mr D complains that Bank of Scotland plc trading as Halifax UK lent irresponsibly when it approved his credit card application.

## **What happened**

In 2013 Mr D applied for a Halifax credit card. In his application, Mr D said he earned £35,000 and was a homeowner. Halifax completed a credit search and says it found around £800 per month of payments to other creditors as well as a mortgage. Halifax says it used estimated outgoings and applied its lending criteria before approving Mr D's application. The credit limit was set at £4,100. Mr D completed a balance transfer a short time later.

The credit card was repaid in 2020. Last year, Mr D complained that Halifax had lent irresponsibly by approving his credit card application. Halifax didn't agree and didn't uphold Mr D's complaint.

An investigator at this service looked at Mr D's complaint and upheld it. They thought Halifax had failed to carry out proportionate checks and that, had it done so, it would've declined Mr D's application. Halifax didn't agree and said Mr D's bank statements showed the credit card was affordable. Halifax also said Mr D hadn't contacted it about being in financial difficulties and that his credit card balance was repaid. Halifax asked the investigator to consider reviewing their position before referring the complaint for appeal.

The investigator wasn't persuaded to change their view and said they thought Mr D's complaint should be upheld with all interest and charges applied to his credit card being refunded. Halifax didn't respond so the complaint was referred for decision. Halifax later requested extensions but no further response was received. As Halifax didn't respond to the investigator, Mr D's complaint has been passed to me.

## **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.

We've set out our general approach to complaints about irresponsible lending - including the key rules, guidance and good industry practice - on our website. And I've referred to this when deciding Mr D's complaint. There are overarching questions that I need to answer in order to fairly and reasonably decide Mr D's complaint:

- Did Halifax complete reasonable and proportionate checks to satisfy itself that Mr D would be able to repay her loans in a sustainable way? If so, did it make a fair lending decision? If not, would those checks have shown that Mr D would've been able to do so?
- Did Halifax act unfairly or unreasonably in some other way?

Checks should be borrower focused and take into account various factors, like the amount being lent, the costs to the borrower each month, credit history and the consumer's income

and outgoings. The full rules can be found in CONC and information about how we consider this type of complaint can be found on our website.

I've started by considering whether the checks Halifax completed in its application were proportionate. Halifax says it took Mr D's income and looked at his credit file. Halifax found regular credit commitments for around £800 a month for other borrowing and when it completed a credit search. Mr D's forwarded a copy of his credit file that goes back to 2014 – around a year after the application was approved. Whilst it doesn't provide balances at the time of Mr D's application, it does show he had several active credit cards, loans and a large overdraft facility. Even if not all those credit cards had outstanding balances, I think the availability of that level of unsecured credit would've been something Halifax had to consider.

The credit file shows Mr D had two loans with repayments totalling around £600 and at least two credit cards that had outstanding balances. In the month before Mr D applied to Halifax he made a payment of around £200 to one credit card provider and £30 to another. I also think it's reasonable to note Mr D had a large overdraft facility at the time of application and had between £7,000 and £8,000 outstanding. Halifax's bank statements show it charged Mr D around £95 a month for being overdrawn.

In my view, the level of outgoings and size of Mr D's outstanding commitments should've let Halifax know it was likely he'd struggle to repay the balance in a sustainable way. I think Halifax should've considered completing more comprehensive checks before approving Mr D's application. So I've gone on to think about what Halifax would've found if it had carried out better checks.

There's no set list of checks Halifax had to complete. There are options like asking for evidence of income or reviewing bank statements available. In this case, Mr D had his current account with Halifax and has forwarded a copy of his bank statements immediately preceding his application. Having looked at Mr D's bank statement, I agree with the investigator that Halifax lent irresponsibly when it approved his application.

Mr D's statement show regular credit commitments and charges totalling around £950 a month. Whilst some of the payments made were for loans, the overdraft and credit card balances appear to have been subject to minimum payments without impact to the outstanding balance. Given the size of Mr D's overdraft, his borrowing history, what he already owed and his income, I think Halifax should've been sure Mr D could afford to not only manage the minimum payments but be in a position to repay the balance in a sustainable way. In my view, the evidence on file shows the credit card wasn't in a position to sustainably repay the borrowing. I agree Halifax lent irresponsibly when it approved Mr D's credit card application. As I think Halifax lent irresponsibly, I'm upholding Mr D's complaint and directing it to settle as follows:

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied.
- If the rework results in a credit balance, this should be refunded to Mr D along with 8% simple interest per year\* calculated from the date of each overpayment to the date of settlement. Halifax should also remove all adverse information regarding this account from Mr D's credit file.
- Or, if after the rework there is still an outstanding balance, Halifax should arrange an affordable repayment plan with Mr D for the remaining amount. Once Mr D has cleared the balance, any adverse information in relation to the account should be removed from their credit file.

\*HM Revenue & Customs requires Halifax to deduct tax from any award of interest. It must give Mr D a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

### **My final decision**

My decision is that I uphold Mr D's complaint and direct Bank of Scotland plc trading as Halifax UK to settle in line with the above guidance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 7 February 2023.

Marco Manente  
**Ombudsman**