

## **The complaint**

Miss P says Bank of Scotland plc, trading as Halifax, irresponsibly lent to her.

## **What happened**

Miss P applied online for a credit card from Halifax on 27 December 2017. She was given a credit limit of £900. The account defaulted in October 2022 with a balance of £793.88

Miss P says as she banks with Halifax it knew she was always overdrawn and should not have allowed her to take out a credit card. She is reliant on benefits and this card made her financial difficulties worse.

Our investigator upheld Miss P's complaint, saying Halifax's checks were not proportionate and had it better assessed the data it had access to it would have realised the credit card would most likely not be sustainably affordable for Miss P.

Halifax disagreed with this assessment so the complaint was passed to me to make 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.

We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website and I've taken that into account when considered Miss P's complaint.

Halifax needed to take reasonable steps to make sure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Miss P could afford to repay what she was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and Miss P's income and expenditure.

Certain factors might point to the fact that Halifax should fairly and reasonably have done more to establish that any lending was sustainable for Miss P. These factors might include Miss P's income, how much the repayments were, the frequency of the borrowing and how long Miss P had been indebted.

Halifax says that it carried out all relevant checks when making its decision and the card was deemed to be affordable for Miss P. It says that Miss P declared a gross annual income of £14,000 and it calculated that she had £466 of monthly disposable income after taking into account her housing, living and credit costs. There was no adverse information on her credit file. Halifax explains its system is highly automated and delivers a decision in seconds.

I appreciate that Halifax's lending decision was automated, but this does not mean that obvious available information should be ignored. Halifax had an excellent source of data

about Miss P's financial circumstances – its own internal records. Miss P had an existing relationship with Halifax as she held two current accounts at the bank. This information was easily accessible and clearly relevant to her credit card application, and I think that Halifax should have taken this into account.

From the bank statements Halifax has provided, I can see that Miss P was persistently reliant on the overdraft facility on both current accounts. Neither account was in credit in the three months before this credit card application so Miss P was clearly already struggling financially. It was also clear her actual income was lower than declared for October and November 2017 and had Halifax used that income data it already had its affordability assessment would have shown Miss P to have no disposable income. Whilst her income did increase in December 2017, Miss P remained reliant on both of her overdraft facilities and clearly remained under financial pressure.

It follows I think Halifax was wrong to give this card with to Miss P.

### **Putting things right**

As I don't think Halifax ought to have opened the account, I don't think it's fair for it to be able to charge any interest or charges under the credit agreement. But I do think Miss P should pay back the capital she has borrowed as she has had the benefit of that money.

If Halifax has sold the debt, it should first try to buy it back. If this is not possible it must work with the new owner to achieve the same outcome for Miss P as the steps set out below.

Therefore, Halifax should:

- Rework the account removing all interest, fees, charges and insurances (which have not already been refunded) that have been applied.
- As this will result in an outstanding balance, Halifax should ensure the existing repayment plan for the remaining amount remains affordable for Miss P.
- Once Miss P has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

### **My final decision**

I am upholding Miss P's complaint. Bank of Scotland plc, trading as Halifax, must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 18 April 2023.

Rebecca Connelley  
**Ombudsman**