

The complaint

Mr W has complained that Bank of Scotland plc (“BOS”) lent to him irresponsibly by increasing his overdraft limit over a short period of time when there was evidence of gambling.

What happened

Mr W successfully applied online for an overdraft with a limit of £50 in May 2021. This was increased to £450 on 1 June and £720 on 7 June. There were further increases until the overdraft reached its highest limit of £1,800.

Mr W complained to BOS that the overdraft lending was irresponsible. BOS said based on the checks it did both internally and externally and on the information Mr W had provided about his income and expenditure that it was satisfied the lending was affordable. But BOS upheld Mr W’s complaint as it agreed that on review of the transactions on Mr W’s statements it shouldn’t have increased Mr W’s overdraft on 7 June and continued with the overdraft lending given the multiple gambling transactions between 1 and 3 June 2021.

To put things right BOS:

- Refunded all overdraft fees and charges applied since 8 June 2021 amounting to £372.15.
- This was credited to Mr W’s account on 4 April 2023 and was enough to repay the outstanding balance of Mr W’s overdraft.
- BOS then removed the overdraft facility and applied a marker to the account to stop Mr W from applying for further lending.
- BOS paid £100 compensation for the distress and inconvenience caused.

Mr W was unhappy with this and brought his complaint to this service.

One of our adjudicators looked into Mr W’s complaint and thought that what BOS had already done to settle the complaint was in line with what we’d recommend and didn’t think BOS should do anything more.

Mr W disagreed. He doesn’t believe the £100 compensation addresses the months of suffering. He says the overdraft has put a strain on his marriage and his mental health. He is also unhappy at the service he received from BOS and that he was only given 30 days to pay back the overdraft and wasn’t offered a repayment plan. So Mr W has now asked that his complaint be progressed for an ombudsman’s 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, I think that what BOS has already agreed to do to put things right for Mr W is fair and reasonable in all the circumstances of this complaint. I'll explain why I think this is the case.

It might help for me to start by explaining that where a business accepts (or we decide) it did something wrong, we'd expect the business to put the consumer in the position they would be in if that wrong hadn't taken place. And in an ideal world, we'd tell a business to put a consumer in the position they'd now be in if they hadn't been given the credit they shouldn't have. But for complaints about funds which shouldn't have been provided this isn't straight forward as the funds were provided and, in most cases – such as here, have long since been spent.

So we look to try and find some other way to put things right. And where a business increases or continued to allow a consumer to use a credit facility which it should have realised was unsustainable, we'd typically expect it to put the consumer in the position they'd be in now if they hadn't paid any further interest and charges on that credit. This means we'd normally expect a lender to refund the interest and charges added to any credit from the point the lender ought to have realised it was unsustainable.

In this case, after reviewing Mr W's overdraft applications and bank statements, I agree that while there was little evidence of gambling up until the end of May 2021 from 1 June the amount and value of gambling transactions dramatically increased and it was evident Mr W wasn't managing his overdraft in a sustainable way.

BOS has already done what I'd expect it to do to put things right based on this finding – as outlined above. Mr W was 'refunded' all of the interest, fees and charges caused by the overdraft facility. Furthermore, it has now removed the overdraft facility and added a marker to his account to stop this type of lending in the future and compensated Mr W £100. All of this is in-line with what I'd recommend.

I accept that Mr W is unhappy that he wasn't offered a repayment plan. But I can see in BOS's letter it provided Mr W with a number to call if he needed help with repaying his overdraft and I can't see he ever did. Furthermore, having reviewed the statements leading up to his overdraft being withdrawn I'm not persuaded he needed a repayment plan. As I can see there is a lot of discretionary spending on things such as fast food and leisure. And Mr W's overdraft was paid off in full when BOS applied the refund to his account.

So I don't think BOS did anything wrong here.

Mr W is unhappy with the amount of compensation paid. He says BOS's irresponsible lending has caused him months of suffering and affected his mental health.

I've thought about what Mr W has said. And what he's said is a reason for upholding his complaint rather than a reason for departing from our normal approach to putting things right in cases such as his. BOS has already refunded all the charges and interest applied to his account in-line with what I'd expect and on top of that paid Mr W £100 compensation.

Taking this all into consideration, I'm not persuaded further compensation is due or would make a material difference to Mr W's circumstances. So it follows that I think what BOS has done to put things right is enough and I'm not requiring it to do anything more.

My final decision

For the reasons I've explained, I'm satisfied that what Bank of Scotland plc has already done to put things right for Mr W is fair and reasonable in the circumstances of this case. So I'm not requiring it to do any more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 3 July 2023.

Caroline Davies
Ombudsman