

## The complaint

Miss O says that Bank of Scotland plc, trading as Halifax, increased her overdraft and charged her excessive amounts for it when she was not financially stable.

## What happened

Miss O complained to Halifax that it should not have increased her overdraft in July 2018 and about all charges applied to her overdraft since the account was opened in 2015. Halifax said there had been no bank error in the decision to increase Miss O's overdraft or in the way charges had been applied. It refunded £100 worth of overdraft charges as a gesture of goodwill.

Dissatisfied with this response Miss O referred her complaint to our service. At this stage Halifax only consented to us looking at events that had occurred since 23 July 2016 based on one of the rules (DISP 2.8.2) set by the regulator, the Financial Conduct Authority. Miss O accepted this.

She told us she was a heavy gambler, regular payday loan user and regular credit card user. All of this was evident to Halifax on her bank statements and so it was irresponsible. She was in cycle of debt.

Our investigator did not uphold Miss O's complaint. She said Miss O only used her overdraft for 18 days in 2017 and this did not show it was not sustainably affordable for Miss O.

Unhappy with this assessment Miss O asked for an ombudsman's review. She said Halifax had increased her overdraft in the last two weeks of July 2018 from £150 to £1,250 and all that time she was maxing it out by gambling.

I reached a different conclusion to the investigator so I issued a provisional decision. An extract follows and forms part of this final decision. I asked both parties to submit any comments by 17 August 2023.

### *Extract from my provisional decision*

*Halifax says it agreed to Miss O's overdraft increases in July 2018 after it obtained information on her income and expenditure and carried out a credit search. Miss O says it was clear from her account history that she was gambling frequently and using pay day loans so the overdraft would most likely not be sustainably affordable.*

*I've carefully thought about what Miss O and Halifax have said. I have to start by saying that Halifax did have some information, at least about Miss O's income because of her salary being paid into his account, when deciding whether to lend more to her.*

*And it's fair to say that Miss O did have a salary which might, in normal circumstances, be enough to suggest that she could afford to repay the overdraft limit increases she was given.*

*However, I'm mindful of the particular circumstances here and I am not persuaded Halifax*

*adequately considered if Miss O could repay any additional credit sustainably – so without suffering any kind of financial harm - rather than just the pounds and pence affordability.*

*Having carefully considered everything provided, I'm intending to find that Halifax acted unfairly when it increased Miss O's overdraft to £500 on 15 July 2018. I say this as it was clear that Miss O's most likely use of her overdraft, based on both her pattern of spend when her account was in credit and the historic use of her overdraft would be to gamble or repay payday loans. And so there was clearly a high risk of the funds going towards unsustainable sources. Indeed the day after this first increase in July 2018 Miss O went on to use the money in this way.*

*And the information I've seen suggests that Miss O went on to develop a reliance on payday loans and other high-cost credit within three months of her limit increases in July 2018. So Halifax should have realised that Miss O was struggling to manage her overdraft and offered her assistance. Miss O ended up paying additional interest as a result of Halifax increasing her overdraft limit and then continuing to allow her to use it even though it was unsustainable.*

I then set out what Halifax would need to do to put things right.

Neither party sent in any comments or new information in response to my provisional 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 explained how we handle complaints about unaffordable and irresponsible lending on our website. And Halifax will also 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.

As neither party sent in any new evidence I have no reason to change the findings or outcome I set out in my provisional decision.

It follows I find that Halifax should not have provided any increases to Miss O's overdraft facility from 15 July 2018 onwards. As Miss O lost out because of what Halifax did wrong 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 O's complaint for Halifax to put things right by:

- Reworking Miss O's current overdraft balance so that all interest, fees and charges applied after the increase on 15 July 2018 are removed.
- If an outstanding balance remains on the overdraft once these adjustments have been made Halifax should contact Miss O to arrange a suitable repayment plan, Miss O is encouraged to get in contact with and cooperate with Halifax to reach a suitable agreement. If it considers it appropriate to record negative information on Miss O's credit file, Halifax should reflect what would have been recorded had it not increased the limit in July 2018. Halifax can also reduce Miss O's overdraft limit by the amount of refund if it considers it appropriate to do so, as long as doing so

wouldn't leave Miss O over her limit.

- 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 O 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 Halifax should remove any adverse information from Miss O's credit file. Halifax can also reduce Miss O's overdraft limit by the amount of refund if it considers it appropriate to do so.

† HM Revenue & Customs requires Halifax to take off tax from this interest. Halifax must give Miss O a certificate showing how much tax it has taken off if she asks for one.

### **My final decision**

I am upholding Miss O's complaint in part. 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 O to accept or reject my decision before 20 September 2023.

Rebecca Connelley  
**Ombudsman**