

## The complaint

Miss E complains that the Bank of Scotland plc (trading as Halifax) was irresponsible to lend to her.

## What happened

Miss E had one loan from Halifax in September 2017 as follows:

<u>Loan</u>	<u>Date</u>	<u>Amount</u>	<u>Term</u>	<u>Repayment</u>	<u>Due</u>	<u>Repaid</u>
1	10 Sep 2017	£4,000	24m	£216.08	1 Sep 2019	1 Apr 2020

Miss E says her financial situation was terrible at the time and Halifax was also her banking provider, so should have seen she was struggling with existing short-term loans. She adds that the new loan made the situation worse and meant she could not afford priority bills.

Halifax says it checked Miss E's credit score as well as her income and outgoings before approving the loan. It says Miss E passed all the checks and so it could not agree the lending was irresponsible.

Our adjudicator did not recommend the complaint should be upheld. He was satisfied that Halifax had carried out proportionate checks and found nothing to indicate the repayments were unsustainable.

Miss E responded to say, in summary, that Halifax should have seen how much of her income was taken up with other credit commitments as it had access to her bank statements. She adds that she'd had complaints upheld about other lending around the same time and that it was a particularly difficult time in her life due to caring responsibilities and a relationship break-up.

## Provisional findings

I issued a provisional decision to Miss E and to Halifax on 4 August 2023. I've summarised my findings below:

- I wasn't satisfied that Halifax's affordability checks went far enough in the circumstances because:
  - The loan was for a term of 24 months and Halifax needed to be satisfied the repayments were sustainable for that period;
  - I couldn't see that Halifax verified Miss E's declared income and housing costs;

- Halifax estimated her expenditure at £393 using an industry standard statistical average;
- Halifax calculated Miss E's monthly disposable income to be £274 per month which, after the new loan repayment, left her with £58 per month for other unforeseen expenditure;
- Miss E was already committed to paying 21% of her declared income towards credit repayments and the new loan increased that to more than 40%.
- So I considered Halifax should have used Miss E's bank statements, to which it had access, in order to carry out proportionate checks. Had it done so, it would've seen:
  - Miss E's income averaged about £1,200 per month in the lead up to the loan;
  - Miss E paid around £380 per month for her share of rent and bills;
  - There were regular payments for a mobile phone of around £50 per month;
  - Miss E had taken out three short-term loans with one company in the month before the loan application and a further one with a second company – a total of £650;
- As Halifax's own calculations showed Miss E had only £58 left each month after the new loan, the additional short-term debt made the repayments unaffordable.
- I also noted that Miss E asked for several payment holidays during the term of the loan, starting after she'd made just one repayment.

In summary, I was satisfied that proportionate checks would have shown Miss E was already struggling financially. So, I found it was irresponsible to have approved the loan, given what Halifax should have known about Miss E's financial circumstances.

Miss E responded to say she had no additional information.

Halifax responded to say that it maintains its checks were proportionate and its calculations showed Miss E had disposable income of £274 per month with which to pay the repayments of £216.08 for 24 months. It added that Miss E used some of the money to repay existing debts and that she only contacted Halifax once, in February 2019, to say she had a short-term problem with the repayment.

### **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.

I've reviewed Halifax's response, but I still don't find its checks went far enough, given what it knew about Miss E's circumstances. I consider it is unrealistic to expect sustainable repayments when a consumer has less than £60 per month remaining and repayments are due for 24 months. In addition, with over 40% of Miss E's declared income to be committed to credit repayments, there was a real risk that she'd be unable to make priority payments.

I note what Halifax says about the loan being used to repay other debts, but, at the point of the lending decision, Halifax did not have that information – in fact it noted the purpose of the loan as "*miscellaneous*".

So, I still find that Halifax's checks didn't go far enough and that proportionate checks would have shown that further lending was irresponsible.

In summary, as neither party provided any new information, I see no reason to depart from my provisional decision.

### **My final decision**

My decision is that I uphold this complaint. Bank of Scotland plc (trading as Halifax) should:

- Add up the total amount of money Miss E received as a result of having been given the loan. The repayments Miss E made should be deducted from this amount.
  - If this results in Miss E having paid more than she received, then any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement).\*
- Remove any adverse information recorded on Miss E's credit file in relation to the loan.

\*HM Revenue & Customs requires Halifax to deduct tax from this interest. Halifax should give Miss E a certificate showing how much tax it's deducted if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 3 October 2023.

Amanda Williams  
**Ombudsman**