

The complaint

Mr R is unhappy that Bank of Scotland trading as Halifax didn't do more to help stop him losing money to gambling via payments made from his current account.

What happened

The circumstances that led to this complaint are well known to both parties, so I won't repeat them in detail here. But, in summary:

- Mr R says matters in his personal life led him to gamble excessively between the end of 2019 and July 2022. He spent his savings and borrowed a considerable amount of money from loan providers, friends and family. He thinks Halifax should have spotted the gambling and reached out to him and, if the bank had done so, he could have got help sooner and avoided ending up in financial difficulties.
- Halifax said it wasn't the bank's place to tell Mr R how to spend his money and it refused to refund any of the money Mr M had spent on gambling.
- Our investigator didn't think Halifax had done anything wrong in allowing the payments to go through. And she thought the bank had offered Mr R appropriate support relating to his gambling addiction once he sought help. Mr R disagreed, so the complaint has come 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.

Having done so, and while I appreciate this will come as a disappointment to Mr R, I've reached the same outcome as the investigator for much the same reasons.

When making my decision I've had to balance a number of competing obligations. Halifax is expected to process payments that Mr R authorises it to make. But there are some situations where we believe banks, taking into account relevant rules, codes and best practice standards, shouldn't have taken their customers' authorisation instruction at 'face value' – or should have looked at the wider circumstances surrounding the transaction before making the payment.

But most banks don't manually monitor accounts or have a mechanism to look for gambling activity beyond standardised Merchant Category Codes (MCCs). So, a business is only likely to become aware of a potential problem if it has flagged up for some other reason. That's likely to be because the pattern of spending had triggered fraud detection algorithms or there are signs of financial difficulty on the account that causes the business to look at things further – this could be regular use of an unplanned overdraft, returned direct debits, being over a credit limit or missing expected repayments.

In Mr R's case there's no dispute that he spent a considerable amount of money, over an extended period of time, on gambling. And there were times when his spending made the account go into (but not over) Mr R's approved overdraft. But there were also extended periods of time when the account was in a considerable credit position – on many occasions the balance was in excess of £5,000. And it quickly became 'normal' for Mr R to transfer money in and out of various accounts he held with Halifax, paying money out to various gambling website (both directly, using his debit card and via a well-known online payment system) and receiving large sums back in. He also tended not to gamble over the weekends and national holidays which might suggest he had a degree of control over his spending.

As I've already said, Mr R used his overdraft facility on occasion but he didn't apply to increase the limit over the period in question. So there was no requirement for the bank to review his spending and borrowing which might otherwise have presented an opportunity for Halifax to offer Mr R support. Nor does Mr R appear to have contacted the bank about his gambling until August/September 2022.

So far as I can see, it was not until June 2022 that a transaction on Mr R's account triggered intervention from the bank – some open banking payments triggers a security check. The bank's notes relating to what happened then are limited but there's no indication that Mr R flagged any problems with his spending at that time but, as I've already mentioned, he does seem to have asked for help in August/September 2022.

The bank's notes from September 2022 suggest Mr R called to discuss his options after getting into considerable debt due to gambling. And I'm pleased to see that Mr R was put through to Halifax's additional support team who discussed his options. Mr R also confirmed he was in touch with a debt charity, an online support group, he'd signed up to GamCare and he was no longer able to gamble from his current account. Mr R apparently said he didn't want any support needs flags adding to his account. But the call-handler signposted him to gambling and mental health support and transferred Mr R to Halifax's loan team to see if a consolidation loan could be offered to make repaying his debts more straightforward.

Then, in April 2023, Mr R raised a complaint about his overdraft facility. Halifax concluded the facility should not have been given to Mr R in 2018, so it refunded all the charges and interest that had been applied over the years, along with £150 compensation to recognise any distress and/or inconvenience caused. It removed the overdraft facility and also signposted Mr R to various free debt advice charities.

Given the particular circumstances of this complaint, I can't fairly conclude that Halifax ought to have stepped in sooner. But, even if I'm wrong about that, I can't be sufficiently sure that intervention at some point would (more likely than not) have stopped Mr R from losing money to gambling. I appreciate he feels that earlier intervention would have been successful but he's saying that somewhat with the benefit of hindsight at a time when he says his gambling is now under control and his mental health seems to be in a better place. Had Halifax bank intervened earlier he may not have been so open to any offers of support and/or he might have assured the bank that his spending was under control. And I think the bank may have accepted that, given the frequent periods when his account was in credit.

With all of the above in mind I can't fairly conclude that Halifax should refund any of the payments Mr R made to gambling websites or otherwise pay him any compensation.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or

reject my decision before 22 February 2024.

Ruth Hersey
Ombudsman