

The complaint

Mr K complains about Bank of Scotland plc, trading as Halifax, irresponsibly giving him a loan for £6,000.

What happened

I issued my provisional decision on 22 February 2024, and this is what I said:

I've considered the relevant information about this complaint.

Based on what I've seen so far, there will be a slightly different outcome to what our investigator proposed.

Before I issue my final decision, I wanted to give everyone a chance to reply.

I'll look at any more comments and evidence that I get by 7 March 2024. But unless the information changes my mind, my final decision is likely to be along the following lines.

The complaint

Mr K complains about Bank of Scotland plc, trading as Halifax, irresponsibly giving him a loan for £6,000.

What happened

Mr K says that he was in severe debt in 2017, that he owed approximately £26,000 to 23 different creditors and £10,000 in County Court Judgment's (CCJ's).

In February 2017, Mr K applied to Halifax for a £6,000 loan over a six and a half year period. As he struggled to make the monthly payments he defaulted on the loan and, in 2021, his debt was sold to Company A.

Mr K complained to Halifax. He thinks they should've known he couldn't afford the loan and should therefore write off the loan in full. He explains that he had a current account with Halifax, so his debt should've been visible to them.

Halifax accepted they shouldn't have given Mr K the loan. They explained that their decision was based on inaccurate information provided by Credit Reference Agencies (CRA's) at the time of his application, and they agreed to refund £2698.78 interest which had been charged. Halifax confirmed no additional fees were charged.

In response to Mr K's request for the loan to be written off, Halifax said they wouldn't refund any more of the amount loaned as Mr K benefitted from the amount borrowed and was aware of his financial situation when he made his application. They added that the remainder of the balance would still be payable, and any credit file impact would remain in order to accurately reflect events.

Mr K brought his complaint to our service; however our investigator didn't uphold Mr K's complaint.

Mr K remains dissatisfied as he believes the loan should be written off. So, this case has now been referred to me to look at.

What I've provisionally 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, I'm not upholding this complaint.

I should first say that I'm pleased to see that Halifax have refunded the interest here and I think this action is fair and reasonable considering the incorrect CRA report and Mr K's circumstances.

To consider whether the loan should be written off, I first looked at the information available to Halifax when they agreed the £6,000 loan in 2017. This was:

- 1. An incorrect CRA report which meant they had no information about Mr K's above-mentioned debt at that time.*
- 2. An on-line application from Mr K confirming affordability through the following entries:*
 - a. Employed earnings of £2200 per month*
 - b. Outgoings of £600 per month*
- 3. A Halifax bank account which showed:*
 - a. An overdraft facility of £2,300*
 - b. Outgoings which fully utilised this overdraft facility*

Having done so, I'm satisfied that Halifax haven't acted irresponsibly here. Halifax rely on CRA reports to inform them of an applicant's credit rating and outstanding debt. They had been given incorrect information by Mr K and a CRA report failed to pick this up. If the CRA report had been accurate, Mr K would've had his application rejected and wouldn't have received the £6,000 loan.

I also considered whether Halifax had missed information from Mr K's bank account that would've indicated he couldn't afford the loan and whether they should've scrutinised his account. Even if Halifax's system is able to check internal information, I can't see they would've joined up the dots here and realised Mr K might've been in debt. This is because the information he supplied showed he could repay the overdraft, which he initially started to do. In addition, unless Halifax questioned his payments, they wouldn't have had any knowledge about his debt.

So, having considered the above, I think Halifax's following statement is fair and reasonable:

'As no bank error was found, you benefitted from the amount borrowed and were aware of your financial situation at the time you applied for the loan, we wouldn't look to refund any more of the amount borrowed'.

So, I'm not requiring Halifax to write off the loan.

Also, although I have empathy for Mr K's position of severe debt, I don't think it would be fair or reasonable to ask Halifax to contact CRA's to amend any credit file impact. This is

because Mr K was aware of his financial situation when he completed the loan application form and Halifax have a responsibility to report accurate information.

So, having considered the above and all the information on file I'm not upholding this complaint.

My provisional decision

For the reasons I've given above, it's my provisional decision not to uphold this complaint.

I'll look at anything else anyone wants to give me – so long as I get it before 7 March 2024. Unless that information changes my mind, my final decision is likely to be as I've set out above.

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 didn't receive a reply from Mr K. Halifax responded to say they had nothing to add.

So, as no further arguments or evidence have been produced in response to my provisional decision my view remains the same.

I therefore adopt my provisional decision and reasons as my final decision.

My final decision

For the reasons I've given in my provisional decision my final decision is to not to uphold this complaint against Bank of Scotland plc, trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 12 April 2024.

Paul Douglas
Ombudsman