

The complaint

Miss D complains Bank of Scotland Plc trading as Halifax have charged her excessive overdraft interest on her current account.

What happened

Miss D complained about overdraft interest, and credit card interest, to Halifax. This complaint only deals with the overdraft interest, not the credit card interest.

Halifax accepted they shouldn't have renewed Miss D's overdraft on 28 December 2018 – and to make up for this they refunded £2,601.74. This was made up of interest charges, plus 8% interest for each time Miss D didn't have the money between 28 December 2018 and 30 April 2021. Halifax said they'd not refunded her past 30 April 2021 because they wrote to her letting her know she'd been using her arranged overdraft for some time – and suggested she contact them, but they didn't hear from her. In addition, they paid her £60 for the time she spent trying to speak to them. Finally, Halifax also said they'd be removing Miss D's overdraft on 10 November 2023.

Unhappy with this, Miss D asked us to look into things saying she wanted a refund of charges from 30 April 2021 onwards.

One of our Investigators looked into things and agreed Halifax had acted fairly by saying the overdraft shouldn't have been renewed on 28 December 2018 but didn't think they should have only refunded fees up to 30 April 2021. She suggested a full refund of all fees.

Halifax didn't accept this, they said they couldn't unilaterally take action which might cause a consumer harm and pointed to a number of events that took place post 28 December 2018 as to why no further refund was due.

I can see our Investigator spent some time explaining to Halifax why they should be refunding the remaining charges – but as they didn't agree the complaint's been passed to me to decide.

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.

Miss D has said both that she wanted her account reviewed from 1 August 2017 (six years from the date of her complaint), and for just the last two years Halifax haven't refunded to be refunded to her.

I've looked at the period August 2017 to 28 December 2017. Miss D is overdrawn during this time, but this isn't a sufficiently long period for me to be able to reasonably say these charges should be refunded. So, I won't be directing Halifax to refund them.

Overdrafts are generally subject to an annual review. Halifax haven't been able to show us they reviewed the account every year. But have accepted they shouldn't have renewed Miss D's overdraft on 28 December 2018.

To check this, I've looked at the transactions between 28 December 2017, and the same date in 2018.

Having done so, I've seen no reason to disagree with Halifax's assessment that they shouldn't have renewed Miss D's overdraft on 28 December 2018. The account was overdrawn for the majority of the period I've looked at.

This essentially means Halifax should have removed the overdraft, as well as refund all interest and charged incurred since that date – or at least offered some kind of forbearance to help Miss D out of this situation. Instead, they haven't done this, and have limited the refund to 30 April 2021. Halifax used this date because it's the date they wrote to Miss D about her overdraft usage but say she didn't get in touch.

While I understand Halifax's point, they should be well aware of our approach at this point – which is we'd expect them to offer proactive support. Sending letters simply isn't enough – we'd expect them to have proactively contacted Miss D to discuss her circumstances with her and I can't see they did that.

So, I'll be requiring them to refund the remaining interest and charges from 30 April 2021 to the date the overdraft was removed. And they may need to pay 8% interest on this – I've set this out in the next section.

I have noted Halifax's reasons for disagreeing with our Investigator, and I've thought about them carefully. I think though the key issue Halifax don't appear to be taking into account, is that it's right for them to say the overdraft shouldn't have been renewed from 28 December 2018 – but this means anything after that isn't relevant. Because they shouldn't have granted it at this point and as such it shouldn't have existed after this date. So, if it shouldn't have existed after this date, any other events that occur after this date aren't something to be taken into account.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer credit Act 1974. However, I'm satisfied the redress I have directed above results in fair compensation for Miss D in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right

I require Bank of Scotland Plc trading as Halifax to:

- Rework Miss D's account to remove any fees, interest and charges applied as a result of the overdraft from 30 April 2021 to date
- If an outstanding amount remains, then Halifax should contact Miss D to arrange a repayment plan. They can record negative information if a balance remains in line with the Information Commissioner's Office guidance. Any default should be dated 28 December 2018
- Alternatively – if removing all fees, interest and charges results in a credit balance, this credit balance should be refunded to Miss D with 8% interest* from the date of any overpayments to the date of settlement. Any negative information should also be removed from Miss D's credit file

*HM Revenue and Customs requires Halifax to deduct tax from the interest payment referred to above. Halifax must give Miss D a certificate showing how much tax they've deducted if she asks them for one.

My final decision

I uphold this complaint and require Bank of Scotland Plc trading as Halifax to carry out the actions in the 'Putting things right' section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 14 November 2024.

Jon Pearce
Ombudsman