

## **The complaint**

Mr A complains that Bank of Scotland plc trading as Halifax lent irresponsibly when it approved his overdraft application.

## **What happened**

Mr A had an existing bank account with Halifax and between February 2018 and early June 2018 made various applications for an overdraft facility of between £50 and £500. All the applications were declined by Halifax's system. On 19 June 2018, Mr A initially applied for an overdraft limit of £50 which was approved. Mr A went on to request five overdraft limit increases on 19 June 2018 and Halifax ultimately agreed to set it at £1,500.

Mr A went on to use the overdraft facility and from June to September 2018 his account was generally overdrawn. A student loan instalment was paid into Mr A's account in mid September 2018 but by early October 2018, Mr A's account was again overdrawn. From that point, Mr A's account was generally overdrawn, temporarily reaching credit balances when student loan payments and transfers from another account he has were received. Mr A's statements show direct debits were regularly returned unpaid, despite the overdraft facility being in place.

Last year, Halifax took the decision to close Mr A's bank account due to the position of the overdraft. Mr A complained that Halifax had lent irresponsibly when it agreed to offer him an overdraft of £1,500 in June 2018. Halifax issued a final response on 22 September 2023 and upheld Mr A's complaint in part. Halifax didn't agree that the original decision to approve the overdraft was irresponsible. But Halifax said that from June 2019, when it completed an annual review of Mr A's overdraft, it should've done more to provide support him. Halifax agreed to refund the interest applied to Mr A's overdraft from June 2019 onwards, totalling £275.05. Halifax also paid Mr A 8% interest on the refund. The total award came to £542.24.

Mr A referred his complaint to this service and it was passed to an investigator. They weren't persuaded that Halifax had carried out reasonable and proportionate checks before approving Mr A's overdraft facility and felt it had lent irresponsibly in June 2018. The investigator asked Halifax to refund all interest, fees and charges applied from June 2018 onwards – the date Mr A's overdraft was approved.

Halifax asked to appeal and said it had applied reasonable living costs and factored Mr A's monthly repayments for existing credit into its lending assessment. Halifax also said there were no concerns about the overdraft application Mr A made which passed all credit checks. Halifax said its calculations showed Mr A had a sufficient surplus income to clear the overdraft within a reasonable amount of time. Halifax added that adverse information noted on Mr A's credit file had likely been added after its lending decision had already been made. Halifax also explained that it had amended Mr A's credit file to remove the adverse information recorded about the account when his complaint was upheld. Halifax didn't agree it had lent irresponsibly and asked to appeal. As a result, Mr A's complaint has been passed to me to make a 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.

I understand Mr A has complained about both this account and a student account with associated overdraft that were approved by Halifax around a month apart. As our investigator has already noted, in this decision I'm only looking at the current account and associated overdraft that was approved in June 2018. I'm not looking at the student account Mr A went on to apply for.

Before agreeing to lend, the rules say Halifax had to complete reasonable and proportionate checks to ensure Mr A could afford to repay the debt in a sustainable way. These affordability checks needed to be focused on the borrower's circumstances. The nature of what's considered reasonable and proportionate will vary depending on various factors like:

- The amount of credit;
- The total sum repayable and the size of regular repayments;
- The duration of the agreement;
- The costs of the credit; and
- The consumer's individual circumstances.

That means there's no set list of checks a lender must complete. But lenders are required to consider the above points when deciding what's reasonable and proportionate. Lenders may choose to verify a borrower's income or obtain a more detailed picture of their circumstances by reviewing bank statements for example. More information about how we consider irresponsible lending complaints can be found on our website.

I've looked at the information available from when Mr A applied for his overdraft with Halifax in June 2018. Halifax has explained that it didn't review Mr A's bank statements in detail before approving the application and that it used information he provided and found on his credit file. As noted above, there's no set list of checks a lender must complete and there are circumstances where lending can be approved without reviewing the applicant's bank statements. With that said, I agree with the investigator that there were signs Mr A's overdraft application should've caused Halifax to carry out more comprehensive checks before proceeding.

Halifax has sent us a document showing the dates and overdraft limits Mr A applied for in relation to this account. Mr A first applied in February 2018 for an overdraft of £50. That was declined by Halifax. Mr A made at least 14 applications between February 2018 and 13 June 2018 for varying amounts, up to £500. All those applications were declined by Halifax. Mr A's successful application on 19 June 2018 came less than a week after his most recently declined application. It's not clear what changed in that timeframe or why Mr A's applications were approved where the previous ones had been declined. But I think the level of

unsuccessful application made in a short space of time, followed by a decision to approve an overdraft limit of £1,500 was unusual and should've caused Halifax to carefully consider the request.

I also think it's reasonable to note Mr A initially applied for a £50 overdraft limit. And when that was approved, he made applications for £500, £750, £1,000 and then £1,500 all of which were also approved. Mr A's request for £2,000 was declined. In my view, this shows Mr A was seeking to borrow the most he could. I think the frequency and nature of Mr A's applications should've put Halifax on notice he may have been struggling. In addition, Mr A's provided information from his credit file that shows he had a missed payment in March 2018 to a mobile phone provider. Mr A's credit file shows he had recent arrears and a default for a credit card in June 2018. Taken together, I think Halifax should've considered going further by carrying out more comprehensive checks before deciding whether to lend.

Whilst I understand Halifax has explained it wasn't required to check Mr A's bank statements, I have to take into account it was his current account provider. I think it would've been reasonable for Halifax to review Mr A's bank statements before approving his application.

I can see Mr A had direct debits returned unpaid in the months before he applied for the overdraft. Mr A was also making monthly payments to a debt management service which would indicate he'd had difficulties with credit previously. And I note Mr A also obtained payday loans from a high interest lender on 1 and 4 June 2018, around two weeks before his application was made. In addition, I haven't been able to find evidence of a regular income being paid into Mr A's account.

In my view, Mr A's bank statements show he was very unlikely to have been in a position to support the cost of new borrowing or sustainably repay it. I think that's somewhat shown by what happened after the overdraft was approved. Based on the available evidence I agree with the investigator's view that Halifax lent irresponsibly when it approved Mr A's overdraft limit of £1,500. As a result, I'm going to tell Halifax to refund all interest, fees and charges applied from inception, in addition to the refunds it's already made.

### **My final decision**

My decision is that I uphold Mr A's complaint and direct Bank of Scotland plc trading as Halifax to settle as follows:

- Re-work Mr A's current overdraft balance so that any additional interest, fees and charges applied from inception are removed.

And

- If an outstanding balance remains once these adjustments have been made Halifax should contact Mr A to arrange a suitable repayment plan. Once the balance has been repaid, Halifax should remove any adverse information about the account from Mr A's credit file.

Or

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, any extra should be treated as overpayments and refunded to Mr A along with 8% simple interest on the overpayments from the date they were made (if they were) to the date of settlement. If no outstanding balance remains after all the adjustments have been made, Halifax should remove any adverse information from Mr A's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 19 July 2024.

Marco Manente  
**Ombudsman**