DRN-4944423

The complaint

Mr F, who is represented by a third party, complains that Bank of Scotland plc trading as Halifax ('Halifax'), irresponsibly gave him two credit card account facilities that he couldn't afford.

What happened

In November 2007, Mr F applied for and was given a credit card account with Halifax with an initial credit limit of £2,250. This was followed by two credit limit increases: in April 2017 to £4,250 and in March 2018 to £6,250.

In November 2022, Mr F applied for and was given a second credit card account with Halifax with an opening credit limit of £9,000. There were no credit limit increases.

Mr F complained to Halifax to say that the accounts shouldn't have been opened for him because they were both unaffordable and that Halifax ought to have made a better effort to understand his financial circumstances.

Our investigator didn't recommend the complaint be upheld. Mr F didn't agree. So, the complaint has 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.

I've read and considered the whole file, but I'll confine my comments to what I think is relevant. If I don't comment on any specific point it's not because I've failed to consider it but because I don't think I need to comment on it in order to reach what I think is the right outcome in the wider context. My remit is to take an overview and decide what's fair "in the round".

Halifax will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don't consider it necessary to set all of this out in this decision. Information about our approach to these complaints is set out on our website.

I will look at each of the two card accounts in turn.

2007 account

Mr F's complaint is that Halifax made credit available that was unaffordable. Halifax has explained that for each account it carried out a credit check using a credit reference agency to see how much credit it might be able to offer. It's possible that Halifax failed to make adequate checks before providing Mr F with his credit. But I have no way of knowing because Halifax says it no longer has details from the credit card application.

Similarly, Halifax doesn't have details of the checks it carried out the for the credit limit increases on this card. I've seen that that the opening credit limit and the increases that followed were all relatively high for the first card. This suggests further checks would be necessary to verify Mr F's financial circumstances, but I can't say that this happened.

In the absence of further details being available, I've reviewed of bank statements leading up to each lending decision. I think this gives a good indication of what Halifax would likely have discovered if it had tried to verify Mr F's expenditure in some way.

The statements show that Mr F was receiving an earned income of around £1,000 per month at this time. There are no clear details about Mr F's monthly outgoings at this point. I can't say that there's enough to show or suggest that the initial credit looks to have been unaffordable. Mr F would need to find around £110 each month if he used all his available card credit and was repaying it on a sustainable basis of 5% each month. He was also making regular use of an overdraft, to the extent of around £130. But even taking this into account, I don't think this alone suggests that the initial lending wasn't likely to be affordable.

Before the April 2017 credit limit increase, Mr F was earning a regular monthly income of around £1,600 per month. He was paying a mortgage of around £230 per month. He was also having to fund housing and monthly travel costs, including fuel. He was also using his overdraft consistently. When Mr F's monthly income was paid in it reduced his overdraft which built up again until his next salary day. He doesn't appear to have been making active use of other credit at this time.

Mr F's next credit limit increase was in March 2018. Mr F's income had increased slightly to around £1,700-£1,000 each month. He was paying mortgage and other housing costs of around £550 each month. He had also largely ceased having to rely on his overdraft from the end of 2017. However, he began using it again from mid-February 2018, albeit on a more limited basis. He was also operating at least two other credit cards, both opened in 2017.

Overall, I haven't seen enough evidence or information for me to think that more thorough affordability checks would have led Halifax to think that the credit it provided to Mr F was unreasonable.

2022 account

The second card was being granted around fifteen years after the first card, so Mr F's financial circumstances were very likely to have changed. Mr F said he was earning a gross annual income of £40,000. Halifax estimated it to work out as a net income of around £2,500.

The credit checks showed that Mr F had clear credit file, without adverse markings such as arrears or late payments. Halifax's checks showed he was paying a mortgage of £550 per month and had other monthly credit commitments of £709. His other monthly spending was estimated to be around £650. This all meant that Halifax found that he had around £540 in disposable income available each month.

For this card, Halifax would already have the records of how Mr F had managed his first card. I do think however since the amount of credit he had with Halifax was now doubling, better checks were needed. So I again think for the second card Halifax ought to have taken steps to ensure that this card would be affordable and also capable of being sustainably repaid.

I think it would have been proportionate for Halifax to have verified Mr F’s financial circumstances in some way. In the absence of anything else, I’ve reviewed three months of bank statements leading up to the lending decision. I think this gives a good indication of what it would likely have discovered if it had tried to verify his expenditure in some way. The statements show that Mr F’s committed expenditure was broadly consistent with the credit checks. Mr F was earning a relatively good income, averaging out at around £2,300.

I’ve noted that Mr F appeared to be paying off most or all of the balance on some of his credit at this time. He was also purchasing some premium bonds which I understand was a stopgap in anticipation that he would be using the funds as the deposit on a house. He was also no longer having to rely to the same extent on his overdraft facility.

Overall, the statements demonstrate that Mr F appears to have had enough disposable income each month to make regular, sustainable repayments towards this new credit facility, alongside what he already owed. Had Halifax completed proportionate checks, I think it’s likely it would have discovered this too. It therefore didn’t act unfairly by opening this account.

I know that Mr F will be disappointed with my decision. But I have noted all the submissions he and those representing him have made in his complaint and looked at all the evidence he’s sent us. Having done so, I have not found sufficient evidence to uphold this complaint.

I’ve considered whether the relationship between Mr F v Halifax might have been unfair under Section140A of the Consumer Credit Act 1974. However, for the reasons I’ve already given, I don’t think Halifax lent irresponsibly to Mr F or otherwise treated her unfairly. I haven’t seen anything to suggest that Section 140A or anything else would, given the facts of this complaint, lead to a different outcome here.

My final decision

For the reasons given above, I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr F to accept or reject my decision before 30 October 2024.
Michael Goldberg
Ombudsman