

Complaint

Mr J has complained about an overdraft that Bank of Scotland Plc (trading as “Halifax”) provided to him.

He says the overdraft he was provided with, which was then had its limit increased, was unaffordable for him and he was allowed to continue using even when he was using it unsustainably.

Background

Halifax initially provided Mr J with an overdraft that had a limit of £700 in September 2023. The credit limit was then increased to £1,000.00 a few days later in September 2023 before it was then finally increased to £1,200.00 in October 2023.

One of our investigators reviewed what Mr J and Halifax had told us. And she thought Halifax hadn’t done anything wrong or treated Mr J unfairly in relation to providing the overdraft or increasing the credit limit. So she didn’t recommend that Mr J’s complaint be upheld.

Mr J disagreed and asked for an ombudsman to look at the complaint.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Mr J’s complaint.

Having carefully considered everything, I’ve decided not to uphold Mr J’s complaint. I’ll explain why in a little more detail.

Halifax needed to make sure it didn’t lend irresponsibly. In practice, what this means is Halifax needed to carry out proportionate checks to be able to understand whether Mr J could afford to repay any credit it provided.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower’s income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we’d expect a lender to be able to show that it didn’t continue to lend to a customer irresponsibly.

I understand that Halifax agreed to Mr J's applications after it obtained information on his income and carried out a credit search. And the information obtained indicated that Mr J would be able to make the monthly repayments due for this overdraft. On the other hand Mr J says that he shouldn't have been lent to or had his limit increased.

I've considered what the parties have said.

What's important to note is that Mr J was provided with a revolving credit facility rather than a loan. And this means that Halifax was required to understand whether the respective limits could be repaid within a reasonable period of time, rather than all in one go. It's fair to say that an overdraft of the maximum amount of £1,200.00 wouldn't have required large payments in order to clear the full amount that could be owed within a reasonable period of time.

Halifax has not provided any details of the credit checks that it carried out. Nonetheless, I've considered all of the other information provided by both Halifax and Mr J in order to get an idea of what Halifax is likely to have had an idea of at the respective times.

Having considered the information provided, I've not seen any suggestion that Mr J had any short-term lending or high-cost borrowing. So I do not consider that what is likely to have been on Mr J's credit file itself meant that Halifax shouldn't have provided him with his overdraft or his credit limit increases.

Furthermore, as Mr J was an existing Halifax current account holder, I've looked at his transaction history in the period leading up to his overdraft applications. I think that it is fair to say that Mr J's transaction history not only showed that he was receiving regular credits, but he appears to have been running a credit balance that shows he could have repaid what he could have owed within a reasonable period of time.

I fully accept it's possible that Mr J's position might have been worse than what it looks like on the information on his account statements, or that it worsened after the credit limit increases took place. For example, I can see what he has said about his income fluctuating because he is on a zero hours contract.

I'm sorry to hear about what Mr J has said and that he's been experiencing financial difficulty. But it wouldn't be fair and reasonable for me to use hindsight here, or say that Halifax should have known this was the case at the time it was making its lending decisions. This is especially as the available information indicates that Mr J could repay what he could owe at the time the lending decisions were made.

For the sake of completeness, I've also considered the position in relation to Mr J's overdraft usage once the facility was granted. But bearing in mind my conclusion that it was reasonable to conclude that Mr J could clear his balance and his pattern of spending indicated that he was choosing not to, I don't think it was unreasonable for Halifax not to withdraw the facility prior to it being due to be reviewed in October 2024.

In these circumstances, I do not agree that Halifax ought to have realised that Mr J might have been experiencing financial difficulty, or that he was unfairly charged as a result of being permitted to continue using his overdraft in such circumstances.

Furthermore, while I appreciate that Mr J has said that Halifax hasn't offered him any assistance since he's said he's in difficulty, I can see that its final response states that it is prepared to consider what if Mr J is able to repay in order to clear what he owes and whether writing off the balance is appropriate, should he get in touch with its financial assistance

team. So I would encourage Mr J to get in contact with and co-operate with any steps that may be needed to review what, if anything, he might be able to repay going forward.

For example, by completing any income and expenditure forms, or providing further supporting documentation. I don't think that it is unreasonable to expect him to complete and return such documentation to Halifax. If Mr J feels that he's been treated unfairly by Halifax as part of any forbearance process, he may - subject to any other jurisdiction concerns – be able to refer any further complaint about this to us.

In reaching my conclusions, I've also considered whether the lending relationship between Halifax and Mr J might have been unfair to Mr J under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've already explained, I'm satisfied Halifax did not lend irresponsibly or act unfairly in allowing Mr J to use his overdraft in the way that he did bearing in mind all of the circumstances. And I haven't seen anything to suggest that s140A CCA would, given the facts of this complaint, lead to a different outcome here.

Overall and having carefully considered everything, I don't think that Halifax treated Mr J unfairly or unreasonably when providing him with his overdraft, subsequently increasing the limit, or allowing him to continue using the facility. And I'm not upholding Mr J's complaint. I appreciate this will be very disappointing for Mr J. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Mr J's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 30 December 2024.

Jeshen Narayanan
Ombudsman