

## **The complaint**

Mrs R says Bank of Scotland plc (trading as Halifax) irresponsibly lent to her.

## **What happened**

Mrs R took out a credit card from Halifax in June 2009. She was given an initial limit of £1,300 that was decreased to £1,000 in October 2009. This was then increased to £1,500 in April 2010 and to £2,250 in October 2010.

Mrs R says the card and limit increases were unaffordable for her, and this would have been evident from appropriate checks. Halifax initially said the complaint was made too late, but an ombudsman issued a decision saying it could be looked at. Halifax then said it no longer had the results of the checks it completed. But it would have reached its lending decisions based on information Mrs R provided; income verification using current account turnover; and a credit check. For the limit increases it also reviewed how Mrs R was using and managing her account and other debts.

Our investigator did not uphold Mrs R's complaint. She said she didn't have enough evidence to conclude that Halifax was wrong to have lent to Mrs R.

Mrs R disagreed and asked for an ombudsman's review. She said, in summary, she had evidenced she only had £181 income left each month after her car loan, this new card and mobile were paid. This was not enough to support herself and her child. Similarly when the limit was increased there were signs she was struggling, either making only the minimum payment or missing payments, and incurring late fees and overlimit charges.

I reached a different conclusion to the investigator so I issued a provisional decision. An extract follows and forms part of this final decision. I asked for any comments by 30 October 2024.

### *Extract from my provisional decision*

*Given the time since the application Halifax is unable to send in the copies of the checks it completed. This is not unreasonable. It has told us what it would have done – it says it would have asked for Mrs R's income and checked it using current account turnover data from one of the credit reference agencies. And it would have also completed a credit check. Based on evidence Mrs R has provided I have been able to understand what Halifax would most likely have learnt from its checks. And on this basis I do not think it made a fair lending decision. I'll explain why.*

*Mrs R was on a 16-hour employment contract. After her daughter was born in February 2009, she became eligible for tax credits. She shared her benefits award summary for the period 6 April 2009 to 5 April 2010. This shows annual earnings from employment of £3,054 and tax credits totalling £2,407. Mrs R told us she was not entitled to any other benefits as she lived with her parents. So her total annual income at the time was £5,461, giving a net monthly income of around £455.*

*Mrs R has also been able to provide a copy of a credit report that covers this time period. This shows she had car finance costing £163 a month and she had a credit agreement for her mobile. Mrs R has confirmed the average monthly cost for this at this time was £41. Allowing £65 to sustainably repay the full balance of this new card means Mrs R was left with £186 a month. Accepting Mrs R may have had no housing costs or bills as she lived with her parents, she did have one dependent and I cannot agree that £41 a week was sufficient income to cover all their likely outgoings. Giving this card to Mrs R also meant she would need to spend more than half her income on credit repayments. As the industry knows spending this level of income on credit can be an indicator of pending financial difficulties. Even more so when the consumer's income is low.*

*It follows I find Halifax was wrong to open this credit card account with its initial limit of £1,300 for Mrs R. And logically this means I also plan to uphold Mrs R's complaint about the subsequent limit increases.*

I then set out what Halifax would have to do to put things right.

Mrs R accepted my provisional decision and said she had no further comments. Halifax did not respond.

### **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.

We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website and I've taken that into account here.

As neither party submitted any comments or new evidence I have no reason to change the findings or outcome in my provisional decision.

It follows I find Halifax was wrong to lend to Mrs R.

### **Putting things right**

Halifax will have to:

1. Refund all the interest and charges Mrs R has paid on her credit card account.
2. If the borrowing is still in place, Halifax should reduce the outstanding balance by the amount calculated at step 1.
3. If, after step 2, there remains an outstanding capital balance, Halifax should ensure that it isn't subject to any historic or future interest and/or charges. If the balance has already been written-off Halifax must not attempt to collect it. But if step 2 leads to a positive balance, the amount in question should be given back to Mrs R and 8% simple interest\* should be added to the surplus.
4. Once Mrs R has cleared any outstanding capital balance, any adverse information recorded in relation to the account should be removed from her credit file.

\*HM Revenue & Customs may require Halifax to take off tax from this interest. If it does, Halifax must give Mrs R a certificate showing how much tax it's taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed above results in fair compensation for Mrs R 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.

### **My final decision**

I am upholding Mrs R's complaint. Bank of Scotland plc (trading as Halifax) must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 28 November 2024.

Rebecca Connelley

**Ombudsman**