

## **Complaint**

Mr I has complained about a credit card Bank of Scotland (trading as “Halifax”) provided to him. He says his financial situation was not considered adequately and this resulted in him being issued with a credit limit increases which he couldn't afford.

## **Background**

Halifax provided Mr I with a credit card with an initial limit of £1,200.00 in April 2017. The credit limit on Mr I's credit card was then subsequently increased to £1,700.00 in August 2017 before it was finally increased to £3,700.00 in April 2018.

One of our investigators reviewed what Mr I and Halifax had told us. And she thought Halifax hadn't treated Mr I unfairly when increasing his credit limit. So she didn't think that Halifax had done anything wrong or that it needed to pay any compensation.

Mr I 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 I's complaint.

Having carefully considered everything, I'm not upholding Mr I's complaint. I'll explain the reasons for my decision in a bit 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 I 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.

Halifax says it agreed to provide Mr I with his credit limit increases after it carried out credit searches and obtained some information on his income and expenditure. The information obtained suggested that Mr I had some existing debts but these were well managed and reasonable in comparison to his income. In Halifax's view, the information obtained indicated that Mr I would be able to make the monthly repayments due for these limit increases.

On the other hand, Mr I says that these limit increases shouldn't have been provided to him.

I've considered what the parties have said.

What's important to note is that Mr I was provided with a revolving credit facility rather than a loan. And this means that Halifax was required to understand whether credit limits of £1,700.00 and £3,700.00 could be repaid within a reasonable period of time, rather than all in one go. Credit limits of £1,700.00 and £3,700.00 weren't small nonetheless they didn't require especially large monthly payments in order to clear the full amount owed within a reasonable period of time.

Halifax said that it carried out credit checks before providing these limit increases. But it no longer has a copy of them given the time that has passed since Mr I's applications. Nonetheless I've looked at a copy of the full credit file Mr I has provided with a view to determining what Halifax's credit checks are likely to have shown.

Having considered this information, I think that Halifax's credit checks are likely to have indicated that Mr I did have some existing debts. But it's fair to say that these were being well relatively well managed at the time of these lending decisions. For example, there was no significant adverse information such as defaulted accounts, county court judgements or insolvencies recorded against Mr I at this time.

Bearing all of this in mind there is an argument for saying that Halifax's checks before providing the credit card and limit increases were proportionate. In any event, even if more needed to be done here, at the absolute most it could be argued that Halifax needed to obtain information on Mr I's actual living costs at the time of the initial application and the limit increase. But I don't think that Halifax would have made a different decision even if it had asked Mr I for such information.

I say this because I've not seen anything that shows me that when Mr I's committed non-discretionary regular living expenses and existing credit commitments were deducted from what he received, he did not have the funds to make a sustainable repayment for this credit card. So, in these circumstances, it's difficult for me to conclude that Halifax wouldn't have lent even if it had tried to find out more about Mr I's regular living costs at this time.

I accept that Mr I's actual circumstances at the time may have been worse than what the information about his living costs shows. For example, I know he has said that some of the money in his Halifax bank account at the time wasn't his and that some of these funds were for a deposit for a house purchase that didn't go through.

This may well be the case. But Halifax didn't know this as Mr I didn't disclose this information at the time. In any event, in my view, delving into the detail of Mr I's bank statements in the way he has now and asking Mr I about what funds were his and what funds were for other purposes isn't commensurate with a proportionate check. And most crucially I'm satisfied that Halifax taking further steps to find out more about Mr I's living expenses won't have led it to determine that the repayments for this credit card and the subsequent credit limit increases were unaffordable for Mr I.

As this is the case, I'm also satisfied that Halifax was reasonably entitled to believe that it wasn't increasing Mr I's indebtedness in a way that was unsustainable or otherwise harmful.

I know that Mr I has queried how it is possible for us not to uphold this complaint when he's already had a separate complaint about his Halifax loans upheld. I can understand why Mr I

might find it strange that he's received different outcomes on complaints which he perceives to be materially the same.

But it's important for me to explain that we consider complaints on an individual basis and looking at the individual circumstances. As I've already explained, what will constitute a proportionate check will very much depend on the particular circumstances of the individual application. A proportionate check, even for the same customer, could look different for different applications.

Furthermore, I'm not bound by the outcomes reached by other case handlers on different cases. Ultimately, I'm required to consider the facts of a case and reach my own conclusions. So the outcome on Mr I's other case cannot and do not bind me into reaching the same conclusion on this case. That said, consistency is important and with a view to providing some clarity and reassurance to Mr I, it might help for me to explain that there are some key differences between this complaint and Mr I's other one.

Having looked at Mr I's loan case, it's clear that he was advanced loans for much higher amounts than the amount he could owe as a result of the credit limit increases on this card. I would also add that any assessment on whether Mr I should have been provided with his loans is likely to have factored in what he might have ended up owing as a result of the credit limit on his credit card.

I also think it's worth pointing out that the investigator reached the conclusion that Mr I couldn't afford his loan payments, not that he couldn't afford any credit at all, which is the position that I would be placing Mr I in if I were to uphold this complaint simply because of the conclusions reached on his loan complaints. I've also already explained what proportionate checks are likely to have required, what they are likely to have shown and why this is unlikely to have shown that these credit limit increases shouldn't have been provided to Mr I.

As this is the case, while I'm not required to replicate the outcomes reached by our other case handlers, nonetheless I don't consider that my answer here is incompatible or inconsistent with the one Mr I received on his other case, notwithstanding the differing outcomes.

Finally, I've thought about whether considering this complaint more broadly as a complaint about an unfair relationship would make a difference to my outcome. However, the law relating to unfair relationships is described in s140 of the Consumer Credit Act 1974. It says a court may make an order under s140 if it determines a relationship between the creditor and the debtor is unfair.

The consumer is the debtor and s140 defines the creditor as "*the person to whom his rights and duties under the agreement have passed by assignment or operation of law.*" So where a debt has been sold, such as Mr I's debt was sold in 2020, it follows that the debt purchaser is now the creditor for the purpose of the credit agreement. I'm therefore satisfied that a claim about an unfair relationship can't be brought by Mr I against Halifax, as it is no longer the creditor.

So s140 does not impact upon Mr I's case or lead to a different outcome here and I'm not upholding this complaint. I appreciate this will be very disappointing for Mr I. 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 I's complaint.

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

Jeshen Narayanan  
**Ombudsman**