

The complaint

Mr S, who is represented by a third party, complains that Bank of Scotland plc ('BoS') acted irresponsibly when it agreed to provide him with an overdraft facility and then went on to increase the level of credit. He says BoS failed to take into account his reliance on debt and so allowed him to become persistently overdrawn.

What happened

Mr S was accepted for a £200 arranged overdraft on his current account with BoS in October 2019. The overdraft was then increased four times between then and December 2019, when it reached £2,500.

One of our investigators thought BoS acted fairly in granting the initial overdraft facility and the increases that immediately followed. But she thought BoS had acted unfairly in not taking more action to support Mr S once his over-reliance on the overdraft facility became clear. It therefore shouldn't have continued to offer it to him.

BoS has disagreed with our investigator's finding. It says it was continually monitoring Mr S's account usage and sent him letters asking that he contact them if he needed any support.

The complaint has therefore come to me for an ombudsman's 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.

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 this complaint.

Having done so, I will be partly upholding this complaint and on broadly the same basis as our investigator. I will explain why.

Did BoS complete reasonable and proportionate checks to satisfy itself that Mr S would be able to repay the overdraft in a sustainable way?

BoS needed to make sure it didn't lend irresponsibly. In practice, what this means is it needed to carry out checks that were reasonable and appropriate in order to understand whether Mr S could afford to repay any overdraft facility it made available to him.

BoS carried out a series of checks before approving Mr S's overdraft. The results of these suggested that an initial overdraft of £200 was likely to be affordable. Between June and October 2019 (when the overdraft was first opened) Mr S received total income of around £19,000. This is supported by the bank statements I've seen. Once his spending on essential and non-essential items had been identified, along with his spending on other credit, BoS decided it had enough details to establish that Mr S was likely to be able to operate his new overdraft without worsening his financial situation.

The four limit increases that followed – with his overdraft limit increasing more than twelve-fold - took place within the next two months. The results of the checks again showed that they were likely to be affordable. So, to the extent that Mr S was receiving a monthly income that would enable him to sustainably repay each of the increases that was granted, the checks carried out by BoS were likely to have been fair and proportionate.

If reasonable and proportionate checks were completed, did BoS make a fair lending decision, bearing in mind the information gathered and what they knew about Mr S's circumstances?

I also agree that the opening limit, and each of the limit increases, looked to be affordable, given the short space of time in which they were granted. I haven't seen anything to suggest that Mr S may have had adverse markings on his credit file during this time, such as defaults or a build-up of arrears. Allowing for his committed spending, I think he still had enough disposable funds to be able to sustainably repay the increased overdraft limits he was being given. I've noticed that his income was variable and that it was less in November and December 2019. I don't know the precise reasons for this but given the nature of Mr S's employment, this may well have been due at least in part to a seasonal downturn in his work. This may be a factor in why he was seeking the increases, which followed on in quick succession. But on the basis that this was a credit facility that was intended to be used on a short-term basis and was being sought at a time of year when spending goes up in the period before Christmas, I don't think BoS can be said to have acted unfairly, taking into consideration what was known about Mr S's overall financial situation and that there didn't appear to be an indication that it might be at risk of deterioration.

Taking all the available evidence and information into consideration, I therefore think that at the time they were each granted, BoS's decisions to grant and then increase Mr S's overdraft facility were fair.

Did BoS act unfairly or unreasonably in some other way?

BoS had an obligation to monitor how Mr S was using his overdraft and whether it was being used in the way it was intended – as a short term or emergency credit facility.

I've seen that going forward from mid-November 2019, Mr S was constantly making use of the overdraft. By the end of the year and into January 2020, he was regularly breaching his £2,500 limit. Whilst he was able from time to time to reduce the extent he was making use of it, his monthly income wasn't enough to make a meaningful reduction. He was also incurring a significant level of overdraft fees. For example, in January and February 2020 he was charged just over a £100 in fees each month. And throughout 2020 he was regularly having direct debits returned because he'd reached the limit of his overdraft. I therefore agree with our investigator that the nature of this account and overdraft usage is something I would have expected BoS to pick up on as a concern when it carried out its annual review of the account.

BoS has told us it sent a total of 25 letters to Mr S (between November 2020 and July 2024) to notify him of his overdraft usage. These were not, it says, triggered by BoS being concerned that Mr S might be in financial hardship. Rather, it was to point out that he was using his overdraft a lot and whilst BoS still considered it to be affordable, it was open to Mr S to contact BoS for support. I nevertheless think there was enough evidence to show that Mr S was at risk of such deterioration, and this was amply demonstrated by his inability to reduce his reliance on his overdraft in the year that followed his taking it out.

BoS also drew our attention to the level of credits made to Mr S's account. It said that this showed the overdraft was affordable or repayable within a reasonable amount of time. But that doesn't represent what was actually happening with the account. I therefore agree with our investigator that from October 2020, when I expected BoS to carry out a review of the account, it needed to step in and apply measures to help Mr S to significantly reduce his level of overdraft usage. I say this especially having seen that Mr S was receiving state benefits alongside his income in the period from April to August 2020. In view of Mr S's income falling far short of being able to make any meaningful inroad into the extent of his overdraft usage during this time, I would have expected BoS to step in to help. One way to do this would be to gradually reduce the level of overdraft available to him.

BoS also commented that Mr S was in a position to repay his overdraft in full by a simple reduction in his non-essential spending. But I think the fact that he chose not to doesn't excuse BoS from the need to take positive action to support Mr S and work with him to reduce his reliance on his overdraft and the way he was using it, which wasn't in line with its intended purpose, as BoS is well aware. More recently, BoS said that the account didn't show signs that are commonly associated with customers at risk of financial difficulty, such as unplanned overdraft use, payday loans, gambling transactions or contacting BoS for help. Whilst I agree that Mr S had to take a measure of responsibility for managing his own account, once it could be seen that Mr S was heavily reliant on his overdraft and there were signs of actual or possible repayment difficulties – which I consider there were – BoS then had a duty to act.

I've seen that BoS helped Mr S with reducing fees between June 2023 and January 2024 and more recently, between August 2024 and February 2025. That's certainly a welcome if belated move that will of course reduce the total burden of overdraft fees. But what it doesn't do is tackle the main issue which is Mr S's continuing over-reliance on a large overdraft – especially given that in 2023 I've seen that Mr S's level of income was more volatile with a noticeable reliance upon state benefits to supplement his income.

To summarise, having agreed to several substantial overdraft increases in a very short space of time, BoS had a responsibility to monitor Mr S's account and to apply measures to support him and encourage him to change his pattern of using it, once it became clear that he was relying on it in an unsustainable way.

It follows that I think after a year of having the overdraft – that is by October 2020 – BoS ought to have identified Mr S's unsustainable pattern of overdraft use when carrying out a review of the overdraft facility. By then at the latest, I would suggest given that BoS has said it carries out ongoing reviews of customer account usage, BoS ought to have realised that the overdraft was not being used on the short-term, limited basis it was intended for.

I therefore don't consider that BoS acted fairly in allowing Mr S to continue to operate his overdraft as he was doing so from October 2020. It needed to take steps to intervene, provide him with forbearance and apply active measures to enable him to reduce his overdraft debt. It follows that I'm in agreement with our investigator that BoS didn't treat Mr S fairly.

I've considered whether the relationship between Mr S and BoS might have been unfair under S.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed should be carried out for Mr S results in fair compensation for him in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right – what BoS needs to do

BoS therefore needs to do the following:

- Re-work the overdraft balance so that all interest, fees and charges applied to it from October 2020 onwards are removed and refunded, save for those that have been removed already.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made BoS should contact Mr S to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Mr S's credit file, it should backdate this to October 2020.

OR

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

† HM Revenue & Customs requires BoS to take off tax from this interest. BoS must give Mr S a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons I've given, I am upholding part of this complaint and require Bank of Scotland plc to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 16 April 2025.

Michael Goldberg

Ombudsman