DRN-5425075

The complaint

Mr P has complained about a loan Bank of Scotland plc trading as Halifax provided to him. He says the loan was unaffordable and therefore shouldn't have been given to him.

Mr P is represented in bringing his complaint, but for ease I've written as if we've dealt directly with him throughout.

What happened

In September 2023 Mr P applied online for a £25,000 fixed sum loan with Halifax. The APR was 22.9% and Mr P had to make 84 monthly repayments of £567.22.

In June 2024, Mr P complained to Halifax to say the loan should never have been provided to him. Halifax didn't think it had acted unfairly when lending to Mr P.

Our investigator didn't recommend the complaint be upheld. Mr P didn't agree, so the complaint was passed to me to decide.

What I've decided – and why

I issued a provisional decision earlier this month, the contents of which said:

> 'The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether or not to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation.
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> CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case. What is proportionate will vary with each lending decision and considers things such as (but not limited to): the amount of credit, the size of the repayments, the cost of the credit, the purpose the credit was taken out for and the consumer's circumstances.
>
> Essentially, Mr P needed to be able to meet his financial commitments and not have to borrow elsewhere to repay Halifax for the loan to be considered affordable and sustainable.
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> Halifax has provided information to show it asked Mr P about his income and some of his expenditure before lending. From the application form Mr P completed for the loan, he declared he was employed, a homeowner with a mortgage and had a gross income of £62,750. Halifax has said it verified Mr P's income electronically and from that it used a net figure of £3,705 a month.
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> The information Halifax has provided is fairly limited and doesn't show it undertook a full credit check or, if it did, all the information that provided it with. It also hasn't provided details of the purpose of this loan, with the online application stating 'Miscellaneous'.

A credit search was carried out which recorded Mr P's monthly payments for credit commitments as £245 and didn't record any adverse information such as defaults, county court judgements or recent arrears.

Halifax estimated Mr P's essential living costs as £591 and his housing costs were noted as £1,000. This gave Mr P a monthly disposable income of £1,661 from which the new loan payment of £567 would be paid.

Whilst the information held didn't raise any obvious signs Mr P was in financial difficulty, given the size and term of the loan along with the monthly payment as well as some recent new credit commitments, I think Halifax should have carried out further checks to ensure it had a full understanding of Mr P's financial circumstances to assess whether the loan was sustainably affordable over its term. I say this because this was a fairly large monthly payment and would be payable over a seven-year term. In addition, Mr P had taken out two new credit cards in April 2023, and a new loan in May 2023 as well as obtaining a £1,000 overdraft on his Halifax current account also in April 2023.

I think Halifax should have carried out further checks to get a clear understanding of Mr P's financial circumstances, and one of the easiest things it could have done to consider this was review Mr P's current account he held with it. This would have given it insight into how he was managing his finances and whether there was any activity that may have indicated the loan wasn't genuinely affordable or sustainable. If Halifax had done this it would've seen the volume of gambling transactions on Mr P's current account and realised that he was in a financially vulnerable position. It also would have shown that rather than just paying £1,591 to the household outgoings, he was in fact sending £2,800 a month to his wife each month (which Mr P has said was his contribution to the household bills).

Mr P's statements show that he was making frequent payments to gambling sites. Those totalled £2,077 between 1 June and 31 August 2023, an average of around £692 a month. Whilst Mr P was winning enough to offset that spend, this activity being affordable is too heavily reliant on his ongoing gambling success.

Had Halifax looked at Mr P's bank statements it would have seen that he'd taken out another £10,000 loan just a few weeks earlier, and it also would have seen that Mr P's income seemed to be reducing – being £5,414 in June, £3,563 in July and £3,140 in August – something that would have led to further questions needing to be asked. That combined with the other recent increase in credit commitments from April and May 2023, indicate a potentially worsening financial position and it is difficult to see how further lending, especially of this level, would improve his position.

Having considered everything very carefully I think there were sufficient concerns here that meant it wasn't appropriate for Halifax to have approved the loan in September 2023 and so I'm provisionally minded to uphold Mr P's complaint.'

I set out what I proposed Halifax should do to put things right.

Mr P accepted my provisional decision. Halifax, despite a reminder of the deadline, didn't respond.

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

Having done so, and having considered the full file afresh, I see no reason to depart from my provisional findings.

Putting things right

To put things right for Mr P I direct Halifax to do the following:

- Remove all interest, fees and charges added to Mr P's loan.

- Treat all payments made by Mr P as payments towards the capital of £25,000, if this results in Mr P paying more than the capital then Halifax should add interest of 8% simple a year on any surplus from the date they were paid (if they were) to the date of settlement* and refund this to Mr P.

- If after the account has been reworked Mr P still has a balance outstanding Halifax should work with Mr P to agree a suitable repayment plan.

- Remove any negative information about the loan from Mr P's credit file once it has been repaid.

*If HM Revenue & Customs requires Halifax to deduct tax from this interest. It should give Mr P a certificate showing how much tax it's deducted, if he asks for one.

My final decision

For the reasons I've explained, I uphold this complaint and direct Bank of Scotland plc trading as Halifax to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 22 April 2025.

Julia Meadows
Ombudsman