

The complaint

Mr M has complained that Bank of Scotland plc trading as Halifax (“Halifax”) provided an overdraft to him that was unaffordable.

What happened

I sent Mr M and Halifax my provisional findings on this complaint on 30 April 2025. A copy of that decision is attached and forms part of this final decision.

I explained why I was not planning to uphold Mr M’s complaint and asked both parties to let me know if they had anything to add.

Halifax agreed.

Mr M disagreed. To summarise, he said:

- Halifax has access to his credit file which shows a high level of total borrowing as of May 2025, so he questioned how it could conclude he could pay back the overdraft in a proportionate amount of time. He said his credit file demonstrated his use of different accounts was becoming unsustainable and that Halifax should review all of his accounts;
- he questioned why Halifax didn’t check his bank statements before approving his overdraft limit;
- he paid fees for being stuck in the overdraft and said having substantial debt across all his accounts should be considered financial difficulty;
- he questioned what this service thought was being able to repay something in a reasonable amount of time;
- Halifax didn’t contact him to ask his financial commitments and they made assumptions;
- this service should consider the bigger picture rather than the two months he managed to get out of his debt by borrowing money from family or withdrawing from his trading account; and
- his essential expenditure had been calculated incorrectly. He said he transferred £850 per month out for joint household bills and transferred around £600 per month out to repay relatives. He said his monthly expenditure was £3,000.

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.

I’ve read and considered the points that Mr M has raised in response to the provisional decision and I note that he has made a number of different complaint points. I’ve only concentrated on what I think is relevant. If I don’t comment on any specific point it’s not because I’ve failed to take it on board and think about it – but because I don’t think I need to

comment on it in order to reach what I think is the right outcome. The rules of this service allow me to do this.

I will not reiterate the contents of my provisional decision, instead I will focus on any new points that I think are relevant that Mr M has made in response to my provisional decision.

My provisional decision explains that Halifax was obliged to carry out reasonable and proportionate checks when it initially lent to Mr M and prior to agreeing any subsequent limit increases. The last time Halifax increased Mr M's credit limit was in October 2021. So, Mr M's comments about his total borrowing in 2025, aren't relevant to the checks Halifax carried out for any of the lending decisions it made.

In relation to Halifax not checking Mr M's bank statements before lending to him, it didn't need to do this. The regulator, the Financial Conduct Authority ("FCA"), does not state a set list of checks that a lender needs to carry out. Instead it simply sets out the types of things that a lender could do. It is also for a lender to decide what checks to carry out. In Mr M's case, I thought Halifax carried out reasonable and proportionate checks when making a decision to lend to Mr M in October 2021. As a result of this, I don't think it needed to carry out any further checks, such as checking bank statements as Mr M suggested.

And although Mr M said Halifax simply made assumptions, I'm not persuaded this is the case as Mr M applied for a credit limit of £5,000 at the time. Mr M provided Halifax with information about his income, housing costs and other major commitments. Clearly Halifax must have considered this information and simply didn't accept what Mr M had said as Halifax only agreed to increase his limit to £3,500, instead of the £5,000 requested.

Mr M has said this service should consider the bigger picture instead of the two months he managed to get out of his debt. I did review the bank statements as these were provided. However, as I thought Halifax had carried out reasonable and proportionate checks when making a decision to lend in October 2021, I'm satisfied that it wasn't required to consider anything further such as Mr M's bank statements. I noted that prior to this limit increase Mr M received funds into his account for around £17,000, with part of this from a trading account.

Indeed, Mr M having a trading account which he was able to withdraw around £7,000 from, does suggest he did have sufficient funds repay his overdraft within a reasonable time. These funds do not suggest that Mr M was in financial difficulty. In addition, the £10,000 that was transferred in was transferred from an account in his name and again there is nothing to indicate this amount was borrowed from someone else. It's also worth noting that a lender is entitled to think about any savings a customer may have when deciding whether to lend to them. So, I don't think there was anything to suggest to Halifax that Mr M couldn't repay his overdraft of £3,500 within a reasonable amount of time.

In Mr M's response to my provisional decision, he has questioned what a reasonable amount of time is to repay an overdraft. However, the FCA, in its Consumer Credit Sourcebook ("CONC") or anywhere else, doesn't define what a reasonable period of time is. Equally the concept of proportionality runs right through CONC and this means that a reasonable period of time will always be proportionate to the circumstances. In my provisional decision, I considered the annual account overdraft reviews Halifax carried out and why I thought it was fair for Halifax to continue lending to Mr M given the way his account was used and considering the income and expenditure going in and out of the account.

Mr M has said his expenditure had been calculated incorrectly. However, the expenditure calculated takes into account Mr M's contractual fixed monthly standing orders and direct debits. It doesn't take into account any ad hoc or discretionary spending. Even if we deduct a further £850 and £600 a month to account for the funds Mr M says he transferred each month for joint household bills or to repay relatives, there is still sufficient funds left over to repay the overdraft. But having reviewed Mr M's bank statements, most of the transfers out of his account are to his partner or other accounts held in Mr M's name. The standard amount he transfers each month is £1,100, rather than a total of £1,450 as he has said.

Mr M has said his monthly expenditure was £3,000. I've thought about what he said but his bank statements don't corroborate his committed and non-discretionary expenditure being this much. Given this, I'm satisfied that Halifax didn't act unfairly when it renewed Mr M's overdraft limit each year as that Mr M did have a sufficient disposable amount each month to repay his overdraft in a reasonable amount of time.

In relation to Mr M's arguments regarding financial difficulties, I've already explained why I didn't think there was anything to suggest that Mr M was in financial difficulty for the six years prior to him raising a complaint. I haven't considered whether Halifax should have acted in 2025, as this is after Mr M raised a complaint in 2024.

I also note that Mr M complained to Halifax in February 2024 about the overdraft fees and charges. He also told Halifax about his financial situation at the time. I can see in Halifax's response to Mr M's complaint it asked him to contact its trained advisors if he needs support with his finances. If Mr M has done this and remains unhappy with the way in which Halifax has responded to this and Halifax has considered a complaint about this, he may, subject to jurisdiction considerations, be entitled to refer a complaint to this service,. If Mr M hasn't done this, I recommend he does this as Halifax is obliged to treat him with forbearance and due consideration.

My final decision

My final decision is that I do not uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 13 June 2025.

Provisional decision

I've considered the relevant information about this complaint.

Having done so, I'm not intending to reach the same conclusions as those as our investigator. I've explained why in this provisional decision.

The deadline for both parties to provide any further comments or evidence for me to consider is 14 May 2025. Unless the information changes my mind, my final decision is likely to be along the following lines.

If I don't hear from Mr M, or if they tell me they accept my provisional decision, I may arrange for the complaint to be closed as resolved without a final decision.

The complaint

Mr M has complained that Bank of Scotland plc trading as Halifax ("Halifax") provided an overdraft to him that was unaffordable.

What happened

Mr M held a current account with Halifax which had an overdraft limit of £3,000 attached to it. In October 2021, Mr M made an application to increase his overdraft limit to £5,000. However, Halifax declined this and instead approved an application which increased the overdraft limit to £3,500.

In February 2024, Mr M complained to Halifax and said he wanted a refund of all the charges applied in relation to direct debits, unauthorised overdrafts and standing orders that had been applied to the account for the previous six years. He said he was stuck in a cycle of charges which had left him in financial hardship and his income was consumed by the charges applied by Halifax. He said he was living off credit and he was regularly exceeding his overdraft limit at approximately £850 per year.

Halifax issued its response to Mr M's complaint in April 2024. It said Mr M initially requested an overdraft limit of £2,000 in 2010 and in July 2013, he requested an increase to £3,000. It approved both these applications but said it had been too long since these events to consider a complaint about them. It also said Mr M had used his account on a regular basis since February 2018 and it had found there was sufficient funds to pay back the arranged overdraft limit. It said when it renewed the overdraft, it was clear it was affordable. It said when it had agreed the overdraft increase to £3,500, it did this based on the information provided by Mr M and it didn't check his bank statements. It didn't uphold Mr M's complaint. Unhappy, Mr M referred a complaint to this service.

Our investigator said he thought Halifax had completed reasonable and proportionate checks when agreeing to increase Mr M's limit to £3,500. However, he said he didn't think Halifax should have renewed the overdraft facility from its review date in July 2023. He said by this point, Mr M's use of the account was becoming unsustainable and Mr M hadn't maintained a credit balance for an extended period of time. He said that Mr M's account showed returned direct debits in the months leading up to the renewal date and although Halifax contacted Mr M in February 2023 about his overdraft usage, he didn't think it was enough to prompt Mr M to contact Halifax and reduce the overdraft facility on his own. He said Halifax should rework Mr M's overdraft balance so that any interest, fees and charges applied to it from 17 July 2023 were refunded.

Mr M didn't respond.

Halifax disagreed. It said Mr M's income was substantially higher than his essential spending and it couldn't find any evidence of unaffordability or financial difficulties. It said Mr M would transfer a significant proportion of his income to another account each month which contributed to his account being overdrawn. It said Mr M's average income into the account for the four months prior to the overdraft renewal in July 2023 was around £3,000 and from this he had standing orders and direct debits totalling an average of £1,500 and he transferred an average of £700 each month to another account in his name. It also said Mr M's account showed he had been using the account to trade in investment stocks and had paid £1,095 towards these in the first six months of the year. It said he made further investments totalling £3,650 in September 2023 and he was transferring £600 per month to a discretionary fund which ceased in September 2023. It said Mr M had enough surplus income from his non-essential spending to repay the overdraft within a reasonable amount of time.

Our investigator said it wasn't as simple as saying Mr M had investments and so he could afford the overdraft. He said Mr M wasn't using the overdraft as intended and whilst Halifax had sent a number of letters to Mr M, he didn't think this was enough and that Halifax should have spoken to Mr M instead.

As Halifax remains in disagreement, the case has been passed to me to decide.

What I've provisionally 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.

For completeness, as Mr M has said he is only complaining about the charges added to his account since February 2018, I've not considered any lending or any overdraft renewal decisions made by Halifax prior to this date. .

We've set out our approach to unaffordable/irresponsible lending complaints on our website – including the key relevant rules, guidance, good industry practice and law. I've considered this approach while deciding Mr M's complaint.

Before approving any overdraft applications, Halifax needed to make sure it didn't lend irresponsibly. This means it needed to carry out proportionate checks to satisfy itself that Mr M could afford to repay the amount it was lending. A proportionate check is dependent on a number of factors including – but not limited to – Mr M's particular circumstances (e.g. his financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount / type / cost of credit he was looking to obtain.

October 2021 overdraft lending application

Mr M made an application to Halifax to increase his overdraft limit to £5,000. However, Halifax only approved an increase from £3,000 to £3,500. As a significant period of time had elapsed since July 2013 when the limit was increased previously, I think Halifax should have obtained updated details of Mr M's ability to afford to repay £3,500.

Halifax has confirmed it obtained information about Mr M's income and expenditure at the time. Mr M declared his income and declared his housing costs and other major commitments. Halifax calculated Mr M's credit commitments using credit reference data and internal data. It also calculated a figure for Mr M's essential living costs using statistical data. I've seen a copy of the income and expenditure assessment carried out at the time for the credit limit increase. This showed Mr M had a disposable income of around £1,550. Halifax also obtained information from a credit reference agency. This showed no defaults or any other adverse information and it showed there had been two credit searches in the previous six months.

I don't think there was anything concerning in the data obtained by Halifax which should have prompted it to carry out further checks. As I have seen a copy of the bank statements, the income declared was on average what Mr M received into his account each month and whilst Mr M made use of his overdraft his account had a credit balance between early July 2021 and early September 2021. This was as a result of £7,000 being paid into the account from an investment account and £10,000 from another account held in his name. So, in the lead up to the overdraft increase in October 2021, I don't think there was anything that would have suggested Mr M wouldn't be able to repay the overdraft in a reasonable amount of time. So, it follows that I'm minded to decide that Halifax carried out reasonable and proportionate checks and I'm satisfied that it made a fair lending decision.

Annual account overdraft reviews

I've reviewed Halifax's yearly overdraft renewal decisions. Having done so, I can see that most months, Mr M made use of his overdraft limit. However, there were also periods of time where he didn't use his overdraft. Having reviewed the account usage up until October 2021,

I'm not concerned there was anything that would have led Halifax to believe it had acted unfairly when renewing Mr M's account overdraft.

Between October 2021 and January 2023, Mr M's account remained in its overdraft and didn't have a positive balance. I note that during January 2023, Mr M made a substantial credit into the account from an investment account and large cash deposit. Later in January 2023, the account went back into its overdraft and remained in it. I've reviewed how Mr M managed his account whilst it remained in its overdraft for an extended period of time and whether there was anything that should have prompted Halifax to reconsider its decision to renew the overdraft facility.

Having done so, during this time Mr M's salary averaged around £2,600 to £3,100. I can see that when a salary was paid in to the account, around £1,300 of the salary was paid out to other accounts held in Mr M or his partner's name. I note that Mr M had access to other accounts and also trading accounts to which he would transfer money in and out of. Mr M's committed essential expenditure ranged between £600 and £900, this includes all committed direct debit payments and payments to creditors such as credit card providers. This meant Mr M had a monthly disposable income of around £2,000 to £2,200. Given that Mr M had a disposable income of around this amount, I don't think there was anything to suggest to Halifax that Mr M was unable to repay his overdraft balance within a reasonable amount of time. I have seen some occasions where a direct debit was returned, but this was generally paid a couple of days later after Mr M would transfer money in from another account. This doesn't suggest that Mr M was unable to pay his direct debits. Instead it seems to show that Mr M had access to funds in other accounts which allowed him to repay his committed essential expenditure.

I also accept that Mr M's monthly salary wasn't enough to pay the overdraft amount in full. However the test I must apply is whether Halifax had satisfied itself that Mr M would be able to repay the overdraft amount in a reasonable amount of time. Having reviewed Mr M's income into the account and his committed essential expenditure, I'm satisfied that Mr M had enough disposable income to repay his overdraft in a reasonable amount of time. I don't think Mr M's use of the account should have prompted Halifax to question its decision to offer an ongoing lending facility to Mr M given he was managing the account within its overdraft limit and he was able to repay a substantial amount of it each month. It follows that I'm not intending to decide that Halifax acted unfairly when it decided to renew Mr M's account overdraft facility between July 2018 and July 2023.

Did Halifax act unfairly or unreasonably in any other way?

I can see that Halifax sent Mr M letters explaining how using his overdraft over the last 12 months could cost more than he thought. It provided a link to an online calculator to demonstrate how much it could be costing Mr M and asked him to consider reducing the overdraft if he wanted to. It also asked Mr M to contact it if he wanted to discuss his borrowing or if he was worried about his money situation. But Mr M didn't contact Halifax until February 2024.

Given Halifax wrote to Mr M on a number of occasions, it didn't hear from Mr M and considering the way he used his account, I don't think Halifax should have been prompted that Mr M may be in financial difficulty. So, I don't think Halifax has acted unfairly or unreasonably here.

Having said this, if Mr M is suffering from financial difficulties, I would recommend he contacts Halifax in the first instance. I will also take this opportunity to remind Halifax of its obligations to treat Mr M with forbearance and due consideration.

Finally, I've thought about whether considering this complaint more broadly as being about an unfair relationship under Section 140A of the Consumer Credit Act 1974 ("Section 140A") would lead to a different outcome. However, for the reasons I've already given, I don't think Halifax lent irresponsibly to Mr M or otherwise treated him unfairly in relation to this matter.

Overall, I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here. I'm also satisfied that Halifax carried out reasonable and proportionate checks when lending to Mr M and I don't think it acted unfairly or unreasonably in any other way. It follows that I'm not asking Halifax to do anything further.

My provisional decision

My provisional decision is that I do not intend to uphold Mr M's complaint.

Sonia Ahmed
Ombudsman