

Complaint

Miss M has complained about a loan Bank of Scotland Plc (trading as “Halifax”) provided to her. She says that the loan was unaffordable given her circumstances at the time. This is especially as she was regularly using her overdraft at this time.

Background

Halifax provided Miss M with a loan for £25,002.77 in June 2019. It had an APR of 6.5% and a 72-month term. This meant that the total amount to be repaid of £30,101.04, which included interest, fees and other charges of £5,098.27 was due to be repaid in 72 monthly instalments of £418.07.

One of our investigators reviewed what Miss M and Halifax had told us. And she thought that Halifax hadn’t acted unfairly or lent irresponsibly. So she didn’t uphold Miss M’s complaint.

Miss M disagreed and asked for an ombudsman to look at her 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 Miss M’s complaint.

Having carefully considered everything, I’m not upholding Miss M’s complaint. I’ll explain why in a little more detail.

Halifax needed to take reasonable steps to ensure that it didn’t lend irresponsibly. In practice, what this means is that Halifax needed to carry out proportionate checks to be able to understand whether Miss M could afford to make her repayments before providing this loan.

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 provide loans to a customer irresponsibly.

Halifax says it approved Miss M’s application after she provided details of her monthly income and some information on her expenditure. It says it cross-checked this against

statistical data and information on a credit search it carried out which showed Miss M's existing commitments were relatively well maintained at the time.

In Halifax's view all of the information it gathered showed that Miss M could afford to make the repayments she was committing to. On the other hand, Miss M has said she already had significant debts and was reliant on her overdraft so she couldn't afford this loan.

I've carefully thought about what Miss M and Halifax have said.

As Halifax asked Miss M about her income and expenditure and also carried out a credit check, it's clear that Halifax did obtain a reasonable amount of information before it decided to proceed with Miss M's application. Having looked at the credit check, it's clear Miss M had some existing debts.

However, while I accept that Miss M might not agree with this, I don't think that these were excessive. This is especially as the information from the time shows that Miss M's selected loan purpose was consolidation of her existing debts. £10,000.00 of this loan was automatically used to repay an existing loan and £15,000.00 was released to Miss M.

I don't know whether Miss M did go on to consolidate her other remaining debts into just this loan. Although her bank statements do show payments to some of her revolving credit providers. In any event, Halifax could only make a reasonable decision based on the information it had available at the time.

Halifax won't have known whether Miss M would actually pay off her existing balances – all it could do was take reasonable steps and rely on assurances from Miss M that this would be done with the funds from this loan. So I'm satisfied that the proceeds of this loan could and should have been used to clear a significant proportion of the existing debt that Miss M had and which she is now arguing meant that she shouldn't have been provided with this loan. This includes the Halifax overdraft which Miss M says her use of meant this loan shouldn't have been provided.

I would also add other than on the overdraft, Halifax wasn't in a position to reduce the credit limit or close the vast majority of Miss M's revolving credit accounts. For the sake of completeness, that if Miss M is unhappy that she was allowed to retain her overdraft or other revolving credit with Halifax after being provided with this loan, this is a separate matter she'll have to take up with Halifax on those individual accounts.

I don't think that any arguments in relation to Miss M's overdraft usage after the loan was provided are relevant in the context of this complaint. And more importantly, I don't think that these arguments are a reason for this complaint being upheld. This is particularly as there isn't a prohibition on lending to a customer that has used or is using an overdraft they are entitled to use.

There is an argument to say that, at the absolute most, Halifax ought to have found out more about Miss M's actual regular living expenses, rather than relying on statistical data, bearing in mind the monthly payment and the term of this loan.

Where a firm failed to carry out reasonable and proportionate checks before providing credit to a customer, I need to recreate reasonable and proportionate checks in order to get an indication of what such checks would more likely than not have shown. So I've looked at the information Miss M has provided to get an idea of what Halifax is likely to have learned if it had found out more about Miss M's actual regular living expenses.

In particular, I've looked at Miss M's Halifax current account statements in period leading up to this loan application. However, I don't think that Halifax needed to analyse Miss M's bank statements simply because she was an existing customer. It just needed to get an idea of Miss M regular living costs and contracted monthly expenditure.

Furthermore, the statements provided do appear to show that when Miss M's regular living costs and monthly expenditure are deducted from what she received, Miss M does appear to have enough in funds left over to make the repayments this loan. This is even more the case when the payments to the debts which were expected to have been consolidated are removed from Miss M's expenditure.

As this is the case, I don't think that Halifax did anything wrong when providing this loan to Miss M - it is arguable that it carried out proportionate checks and reasonably relied on what it found out which suggested the repayments were affordable. But even if Halifax had asked Miss M for more information about her regular living costs and contractually committed expenditure here this wouldn't have made a difference to its decision to lend.

In my view, this would have simply reinforced the notion that if Miss M did go on to repay her existing debts with the proceeds from this loan (which was provided at a much lower rate of interest) as her recorded loan purpose said she would, she would have been in a significantly better financial position. And I can't hold Halifax responsible for the fact that Miss M may have gone on to reestablish balances on the revolving credit accounts, her statements appear to show payments were made to after this loan was provided either.

In reaching my conclusions, I've also considered whether the lending relationship between Halifax and Miss M might have been unfair to Miss M under s140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Halifax irresponsibly lent to Miss M or otherwise treated her unfairly in relation to this matter. And I haven't seen anything to suggest that s140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here.

So overall and having considered everything, I'm satisfied that Halifax didn't treat Miss M unfairly or unreasonably when lending to her. And I'm not upholding Miss M's complaint. I appreciate this is likely to be very disappointing for Miss M. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

Although I'm not upholding Miss M's complaint, I would remind Halifax of its obligation to exercise forbearance and due consideration given what Miss M has said about her financial situation during the course of this complaint and it be the case that she experiences difficulty making his payments going forward.

I would also encourage Miss M to get in contact with and co-operate with any steps that may be needed to review what, if anything, she might be able to repay going forward should she be having difficulty. Miss M may be able to complain to us – subject to any jurisdiction concerns – should he be unhappy with Halifax's actions in relation to exercising forbearance over the remainder of the term.

My final decision

For the reasons I've explained, I'm not upholding Miss M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 29 July 2025.

Jeshen Narayanan
Ombudsman