

## **The complaint**

Mr A complains Bank of Scotland plc trading as Halifax provided him with an unaffordable overdraft facility.

Mr A's complaint has been brought by a professional representative, however for ease I've referred to all submissions as though they are his own.

## **What happened**

Mr A held a bank account with Halifax and complained to it in 2024 about it providing him with an unaffordable overdraft facility. Halifax issued a final response in which it said part of Mr A's complaint had been made outside of the regulatory timescales; as such it didn't consider any events more than six years before Mr A had made his complaint. For the events it considered in time, it concluded it had made fair lending decisions.

Unhappy with Halifax's response Mr A referred his complaint to our service for review.

I recently issued a jurisdiction decision where I set out what events our service has the power to consider. To confirm, this was events from March 2018 onwards.

In March 2018 Mr A's overdraft limit was £1,000. In 2021 Halifax increased Mr A's overdraft limit on three occasions, once in January and twice in April, where latterly the limit provided was £2,500. It remained at this level until the account was terminated and defaulted in 2024, following Mr A entering an IVA.

One of our investigators issued a view not upholding Mr A's complaint about unaffordable lending. They set out why they considered Halifax had made fair lending decisions when providing Mr A with an ongoing overdraft facility and limit increases.

Halifax didn't respond to our investigator's view; Mr A disagreed. In summary, he maintained his position that Halifax ought reasonably to have identified that he was persistently using his overdraft, and that by continuing to provide it and approve limit increases it had made unfair lending decisions. Mr A made reference to the rules and regulations Halifax needed to take into account, specifically around overdraft repeat use.

Mr A asked for an ombudsman's review, so the complaint has been passed to me to decide.

## **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.

The information in this case is well known to Mr A and Halifax, so I don't intend to repeat it in detail here. Instead, I've focused my findings on what I consider to be the key points and relevant facts of the complaint. While my decision may not cover all the points or touch on all the information that's been provided, I'd like to assure both parties that I've carefully

reviewed everything available to me. I don't mean to be discourteous to Mr A or Halifax by taking this approach, but this simply reflects the informal nature of our service.

We've set out our approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website. I've taken this approach into account to help me decide Mr A's complaint.

Having considered everything, I'm not upholding Mr A's complaint as I've decided this overdraft lending was provided fairly. I've set out my findings for this below under separate headings.

#### The overdraft limit renewals in 2018, 2019 and 2020

- I've reviewed the bank statements across these years to understand what Halifax's checks at the renewals would more likely than not have shown it.
- I acknowledge there was persistent use of the £1,000 overdraft facility across these years; however, there were months across the years when credits into the account brought the balance into a credit position.
- I've seen some returned direct debits and occasions where Mr A's balance went above the agreed overdraft limit (albeit very modestly). I don't consider the volume and frequency of these events to have reasonably caused Halifax too much concern; not to the extent that I consider it was unreasonable for it to continue providing the facility on the same terms.
- The income and expenditure through the account can be variable and ad-hoc at times; however, I'm persuaded that Mr A was able to repay the overdraft limit being provided within a reasonable period of time.

Mr A has made reference to the Consumer Credit Sourcebook (CONC) rules and regulations around repeat overdraft use. Specifically, Mr A has made reference to CONC provision 5D about overdraft repeat use.

While I acknowledge the rules and regulations Mr A makes reference to, I'm mindful that this provision wasn't in place until December 2019. So, for some of these renewals the rules and regulations Mr A makes reference to weren't in place. However, I would assure Mr A that I have considered the renewal of the overdraft facility from what I consider to be a fair and reasonable point of view, as well as taking into account relevant law, rules and regulations, and what would have been good industry practice for Halifax to have followed at the time.

#### The overdraft limit increases in 2021

- The evidence I've seen by way of Mr A's bank statements support that he would be able to repay the overdraft limit being renewed within a reasonable period of time.
- These statements evidence regular income and credits to Mr A's account, as well as a small amount of committed expenses. Overall Mr A appears to have a reasonable level of disposable income each month, which he could have used in part or in full to repay the overdraft facility.
- I acknowledge there continue to be some returned payments, and the account balance does on occasion go above the agreed overdraft limit; however, this pattern is largely the same as I've set out above.

- I don't consider it unreasonable that Halifax didn't appear to be too concerned with the overall management of Mr A's account and overdraft facility; and I consider it didn't act unreasonably by increasing the overdraft limit, ultimately to £2,500 in 2021.

#### The overdraft limit renewals in 2022 and 2023

- I've reviewed the bank statements across these years to understand what Halifax's checks at the renewals would more likely than not have shown it.
- Mr A's use of the overdraft facility had increased, and I acknowledge there was persistent use across these years; however, just like the previous review years there were months when the account balance went into a credit position, albeit for a very short period of time.
- I've seen that Halifax identified Mr A as a repeat user, in line with its obligations under the CONC provisions around overdraft repeat use. It has confirmed that it sent correspondence to Mr A periodically across these review years setting out his persistent use of the facility, in line with its obligations under CONC 5D.
- Mr A has argued that Halifax had a duty to step in and essentially be more assertive in its communication about his overdraft use; and that it should not have continued to renew the facility on the same terms, given his repeat use and management. I've carefully considered Mr A's point here, as well as Halifax's position that it had identified Mr A as a repeat user who wasn't showing signs of actual or potential financial difficulty.
- Having done so, I'm persuaded that Halifax's assessment of Mr A's repeat use wasn't unreasonable. Under this type of repeat use, the obligations on Halifax required it to communicate with Mr A, setting out the pattern of use and costs being incurred. After a reasonable period of time a firm should communicate with a customer again, reminding them or reiterating the message within the initial communication. And following this, the rules say that if the pattern of use continues, a firm must continue to communicate with a customer at least annually until such a pattern of use ceases.
- Mr A continued to have some returned payments, and his balance at times went above his agreed overdraft (again modestly). However, for the reasons I've already set out above I don't consider they were to the extent that meant Halifax shouldn't have continued to provide the facility on the same terms as it did. And, as I've set out above, Halifax did communicate with Mr A periodically about his use and management of the facility.
- I therefore don't consider Halifax unfairly renewed Mr A's overdraft facility on the same terms in 2022 and 2023.
- By mid 2024 Halifax was made aware that Mr A had entered an IVA and it has confirmed in line with its procedures that it terminated and defaulted the overdraft agreement.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Halifax lent irresponsibly, or otherwise treated Mr A unfairly. I haven't seen anything to

suggest that s.140A or anything else would, given the facts of this complaint, lead to a different outcome here.

I acknowledge my decision will likely be disappointing to Mr A. But for the reasons above, I'm not directing Halifax to take any further action in resolution of this complaint.

### **My final decision**

My final decision is that I don't uphold Mr A's complaint about Bank of Scotland plc trading as Halifax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 16 January 2026.

Richard Turner  
**Ombudsman**