

The complaint

Miss P complains that Bank of Scotland plc trading as Halifax irresponsibly provided her with an overdraft facility that was unaffordable for her.

What happened

Halifax provided Miss P with a bank account and overdraft facility in 2015. The table below provides details of the overdraft facility over the years:

Date	Event	Overdraft limit
September 2015	Original limit	£100
June 2017	1 st limit increase	£550
November 2017	2 nd limit increase	£650
June 2018	3 rd limit increase	£1,000
May 2022	4 th limit increase	£1,600
November 2023	5 th limit increase	£1,970
February 2024	6 th limit increase	£2,250
March 2024	7 th limit increase	£2,500

Miss P made a complaint to Halifax in June 2025 about irresponsible lending, saying Halifax didn't make fair lending decisions when providing her with the various overdraft limits. She said over the years she was in a cycle of persistent use and Halifax didn't act on signs of financial difficulty. Halifax didn't issue a final response within the regulatory timescales so Miss P referred her complaint to our service for review.

One of our investigators looked at the details of this complaint and considered it was reasonable to interpret it to be about the fairness of Miss P's relationship with Halifax. As such she went on to review the details of the complaint on this basis. Having done so, overall she didn't feel Halifax had created an unfairness in the relationship, and she didn't uphold Miss P's complaint.

Halifax didn't respond to our investigator's view; Miss P responded and didn't agree, providing a detailed submission and further evidence to support her position. While Miss P's response was extensive, I've summarised the key points as:

- Our investigator's conclusions around affordability were incorrect and didn't take into account Miss P's actual financial circumstances.
- While some of Halifax's checks weren't found by our investigator to have been proportionate at the time, their findings didn't follow through to a logical conclusion that the lending was provided unfairly.
- Miss P made reference to numerous rules and provisions within the Consumer Credit sourcebook (CONC) in support of her position, largely stating that Halifax hadn't met its regulatory obligations in the initial and ongoing provision of this facility.
- Halifax should have done more where there were clear signs of financial difficulty; and its failure to act created an unfairness in the relationship.
- Halifax has failed to provide any forbearance since Miss P raised her complaint and

continues to apply interest and charges for her use of the facility.

Miss P 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.

Given the information in this case is well known to Miss P and Halifax, I don't intend to repeat it in detail here. Miss P has set out that she wants specific points answered within this decision; she says there are multiple fundamental contradictions and errors within our investigator's view, alongside failures to address specific regulatory breaches she's made reference to.

While I've carefully reviewed everything available to me, which includes the additional information Miss P has provided, I haven't commented or made reference to it all. I've focused my decision on what I consider to be the key points of this complaint. I'd like to assure both Miss P and Halifax that as part of my consideration of this complaint I've taken into account relevant law, rules and regulations, codes of practice, and what I consider to have been good industry practice at the time, as I'm required to do in each case I determine.

My overall decision is reached by deciding what I consider to be fair and reasonable in the individual circumstances of this complaint, as per the rules set out within the Financial Conduct Authority (FCA) Handbook under *Dispute Resolution: Complaints* (DISP) provision 3.6.1 R.

Initially I think it's helpful for me to set out that there are time limits for bringing a complaint to our service, and Halifax has said Miss P's complaint about the overdraft lending has in part been made late. Our investigator set out within their view why they didn't think we could look at a complaint about the lending events Halifax had made more than six years before the complaint was made; and why she considered a complaint about these earlier lending events had also been made more than three years after Miss P ought reasonably to have been aware of her cause for complaint.

But they also went on to explain why it was reasonable to interpret Miss P's complaint as being about an unfair relationship as described in section 140A (s.140) of the Consumer Credit Act 1974 (CCA); and why they therefore considered Miss P's complaint about an allegedly unfair lending relationship had been made to us in time.

I don't intend to go into the same level of detail in my decision here that our investigator already set out, but for the avoidance of doubt I agree with our investigator that I have the power to look at Miss P's complaint on this basis. I say this because I'm satisfied Miss P's complaint is that Halifax irresponsibly provided her with lending, which she says was unaffordable for her and caused her financial loss, and that this therefore potentially created an unfairness in the relationship.

The lending and ongoing provision of this overdraft may have made the relationship unfair, as Miss P may have paid more in interest and charges than she could afford. I acknowledge Halifax doesn't agree we can look at any events more than six years before Miss P's complaint was made, but as I'm not upholding this complaint I won't be commenting on this further.

In deciding what's fair and reasonable I'm required to take into account, amongst other matters, relevant law. As I consider Miss P's complaint is about the fairness of her relationship with Halifax, relevant law in this case includes s.140A-C of the CCA.

S.140A says a court may make an order under s.140B if it determines that the relationship between the creditor (in this case Halifax) and the debtor (Miss P), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement.
- the way in which the creditor has exercised or enforced any of his rights under the agreement.
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship. It appears this overdraft agreement is still active so, I'm satisfied I can consider this complaint about an alleged unfair relationship.

S.140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given the details of Miss P's complaint, I need to consider whether Halifax's decision to lend to her, or any other actions it may have taken, created an unfairness in the relationship between her and Halifax; and if it did, whether Halifax took reasonable steps to remove that unfairness.

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.

Having done so, I've not seen anything to suggest Halifax has acted unfairly in providing Miss P with these overdraft limits, or in the ongoing provision of the facility. I've set out my findings below under separate headings to explain why I've reached this decision.

Halifax has said before providing each overdraft limit it considered multiple sources of data to assess Miss P's financial information. This will have at times included obtaining Miss P's declarations about her income, housing and living costs, and using credit reference agency (CRA) data to identify this information. It also obtained details about Miss P's existing credit through CRA checks. It's said in each event it considers it completed proportionate checks and went on to fairly provide the overdraft facility limits.

The original overdraft limit of £100 in September 2015, the renewal in September 2016 and the limit increases up to and including £1,000 in June 2018

Given the time that's passed since a number of these lending events, Halifax hasn't been able to provide some of the information it collected at the time. I don't consider that to be unreasonable for some of the earlier lending decisions, given the time that has now passed and the data retention obligations on it.

But this does mean Halifax can't provide our service with the information it obtained from the checks it completed, and therefore used to make its lending decisions. So, it follows I can't be satisfied that its checks were proportionate.

Miss P has been able to provide us with information dating back to these events, including the overdraft agreements and her bank statements. In the absence of any contradictory information from Halifax, I've used this evidence to reasonably recreate what proportionate checks at the time would more likely than not have shown Halifax.

In most months Miss P used her overdraft facility and largely kept the balance within the agreed limit. I've seen some instances where the balance went above the agreed limited, but the balance was always brought back in line with the agreement within a couple of days, and usually within one day. Miss P incurred a number of unplanned overdraft fees relating to these over limits. She suggests these, as well as going above the agreed limits, showed financial difficulty and that Halifax therefore shouldn't have continued to provide her with the facility or further increase her limit.

I've carefully thought about Miss P's comments, and the rules Halifax needed to follow. While the above events are examples of what may be considered signs of actual or potential financial difficulty, in the individual details here Miss P's balance going above the agreed limit related to individual instances in each of the months I've referenced above, rather than multiple events within these months, and each instance was short lived.

Miss P's account returned to a credit balance in each month across the period I'm considering with the receipt of her income, and she gradually returned to a debit position following her expenditure. I agree with our investigator that Miss P's use of the overdraft facility does appear to be more of a case of discretionary spending taking her into an overdraft balance, rather than her non-discretionary and existing committed repayment of credit causing this use. I acknowledge Miss P doesn't agree with this, but the evidence within the statements shows her income was sufficient to cover the non-discretionary expenditure and existing credit commitments that debited through the account.

So, I don't consider Miss P's management of the facility, including the over limits and unplanned fees she incurred, ought reasonably to have caused Halifax too much concern, at least to the extent that it shouldn't have increased the facility limit in any of the instances up to and including June 2018.

As such I've not seen anything which I consider ought reasonably to have led to Halifax concluding Miss P couldn't afford to repay the overdraft facility up to £1,000 by June 2018 within a reasonable period of time. So, it therefore follows I don't consider it acted unfairly when providing these overdraft limits.

The overdraft limit renewals in June 2019, 2020 and 2021

The rules and regulations that were in place for the majority of these renewals state that Halifax needed to have reviewed Miss P's overdraft use periodically to determine whether it remained appropriate and responsible for it to provide the facility on the same terms and take further action if certain criteria were identified. Our service considers this periodic review needed to be conducted on at least an annual basis, and while this regulation came into effect in December 2019, before this date a lender still needed to ensure any credit it provided remained affordable and responsibly lent.

Halifax's renewals of the facility will have needed to have taken into account a review of Miss P's behaviours and management of the existing overdraft facility.

Miss P's account continued to swing between a credit and debit position across these renewal years. While Miss P largely used her overdraft facility in each month across the three year period I'm considering, her monthly income largely brought the account back into

a credit position each month. While in some months Miss P's account balance is close to the agreed limit, it doesn't go above it. As such Miss P doesn't incur any unplanned overdraft fees across these years, nor is there evidence of any returned payments due to a lack of available funds.

I note Miss P makes a significant number of transfers to an account with another provider in her name, as well as internal transfers to and from another account with Halifax. Miss P appears to make these internal transfers in order to manage her finances and stop, on occasion, this account balance going above the approved overdraft limit. This suggests to me Miss P was managing her finances, rather than showing signs of financial difficulty.

I note Miss P says this wasn't a sign of her managing her finances but was a sign of financial difficulties. However, by moving money between accounts Miss P was managing her overall position. I note that Miss P had no other overdraft borrowing agreed on the other accounts she held with Halifax, nor the other bank accounts with other providers for that matter, based on what is reported on her full credit file. So, it doesn't appear to me that it should have been evident to Halifax that Miss P's movement of money was because of financial difficulties and that she was borrowing funds from elsewhere to keep her balance within the agreed limit, rather than her managing her finances.

Having reviewed the transactions across these years, it's clear that a large proportion continue to be towards what would be considered discretionary expenditure, or transfers to the other accounts I've referenced above. I've not seen anything to suggest Miss P wouldn't be able to repay this lending within a reasonable period of time. So, it follows that I don't consider Halifax acted unfairly by continuing to provide the facility on the same terms at the renewals in 2019, 2020 and 2021.

The overdraft limit increase to £1,600 in May 2022 and the overdraft limit renewal in May 2023

I've set out above the level of checks Halifax says it completed before providing Miss P with the overdraft limit increases. In relation to the increase I'm considering here, Halifax hasn't been able to provide all of the information it obtained, including what its credit check identified.

As such, I've continued to review the bank account statements Miss P has provided our service, as well as the full credit file she provided dated in late 2025, in order to look back over the years and understand what Halifax would more likely than not have identified through proportionate checks at the time.

In the months leading up to the limit increase in May 2022, Miss P's balance remained in a credit position. Miss P's non-discretionary expenditure is largely reduced, and the majority of transactions are transfers to other accounts.

I've set out above how Miss P managed the overdraft facility across the previous years, and I've not seen anything within the statements which leads me to conclude that Halifax ought to have had concerns with Miss P's financial situation, or should have concluded this increase wouldn't be able to be repaid within a reasonable period of time.

Miss P's credit file shows no adverse information such as bankruptcy/insolvency, CCJs, defaults or arrears across the six year period it covers. I can see other credit accounts which would have been active at the time of its lending decisions. In relation to the limit increase in May 2022, the number of other credit accounts and the associated balances are relatively modest in relation to Miss P's evidenced income, and these are all being managed well.

Miss P's management of the overdraft continued in roughly the same manner across the year, so I've therefore not seen anything to suggest Miss P wouldn't be able to repay this increased limit within a reasonable period of time, and it therefore follows I don't consider it acted unfairly in providing this increase and renewing the facility on the same terms.

The overdraft limit increases up to and including £2,500 in March 2024 and the overdraft limit renewal in March 2025

I've taken the same approach in reviewing the bank statements and full credit file Miss P has provided for these lending events, given Halifax hasn't provided all of the information it obtained through its checks at the time.

Miss P's account had periods of months where large credits kept the account balance in a credit position and when it did swing into an overdraft position, income payments brought it back into credit. Miss P continued to make a number of regular payments and transfers to other accounts across the months, but the facility was largely maintained well.

There's evidence that Miss P was able to save money, with regular monthly payments being made to a savings account, which appears to have been used in September 2023 as a deposit for a mortgage. So, I consider this would reasonably suggest to Halifax that Miss P had a level of disposable income to be able to save money each month, which could be used, at least in part, to reduce the overdraft borrowing.

By the time of the increases in late 2023 and early 2024, the credit file reports an increase in the use of deferred payment providers. While there are a number of accounts of this type reported across this period, the values of these accounts are relatively low, and each is repaid within a short space of time. I've also seen one instance of a returned payment in February 2024, the day before Miss P requested the further limit increase. However, this was one instance of a returned payment across the months leading up to this request, and across a number of years leading up to this request. So, I don't consider this information means Halifax didn't act fairly when increasing the overdraft limit.

Miss P has set out her monthly expenditure and states that she had around £100 disposable income each month. She's not specified during which year this calculation has been completed, but given she's provided a mortgage payment amount within her calculations this will likely be from around September 2023 onwards.

I don't think it unreasonable or unrealistic to say that Miss P's finances will likely have been tighter from late 2023 when it appears she purchased a property and will have had additional household costs that she'd not necessarily previously incurred. However, while Miss P's overdraft use was increasing at this time, her income had also increased across the years, meaning she was able to support a higher level of debt. Her existing level of credit reported through her credit file remained relatively modest compared to her income, and as I've set out above the credit file she's provided shows she was managing her existing credit accounts well.

So, the evidence I've seen doesn't lead me to conclude that Halifax shouldn't have provided the overdraft limit increases I've considered here.

Between March and November 2024 Miss P's balance hardly leaves a debit position. However, from December 2024 and across 2025 up to and including in June 2025 when Miss P raised her complaint, I've seen that her balance fluctuated in each month, with her income and other credits and transfers swinging the balance from a debit to a credit position.

I'm not persuaded that proportionate checks in this instance would have led to Halifax having reviewed Miss P's other bank account statements. However, given these have been provided I've taken a look. Neither account has a borrowing facility, and as such these accounts are run in a credit balance. I don't consider there's anything of concern within these statements, so, it follows that even if Halifax had considered these statements, I've not seen anything to persuade me that its decisions to lend would or ought reasonably to have been different.

Miss P has also said she was using credit cards for essential living expenses. However, I don't consider Halifax would reasonably have been aware of the purpose of Miss P's spending on her credit cards through proportionate checks at the time. Halifax ought reasonably to have identified Miss P's active level of credit and her management of it through its credit checks, but as I've set out above the evidence I've seen doesn't lead me to conclude Halifax ought to have been cornered with the information that it would likely have received through these checks, based on what's reported on the credit file Miss P has provided.

However, my consideration of the evidence and what I consider Halifax would more likely than not have identified through proportionate checks at the time of its lending events doesn't lead me to conclude Miss P wouldn't be able to repay the limits provided and renewed within a reasonable period of time.

So, I've not seen anything between 2022 to March 2025 that leads me to conclude Halifax acted unfairly when providing the limit increases or when it renewed the facility on the same terms.

Has Halifax acted unfairly in any other way

Miss P has said because of this lending she was trapped in a cycle of persistent debt, where she needed to use credit cards to pay for basic living costs, and completed a balance transfer when this borrowing became high. She's said Halifax identified her as a customer in persistent debt as early as 2021, and yet it continued to provide her with the overdraft facility and increase the limit on multiple occasions. She's said Halifax failed to consider the suspension or removal of the overdraft facility, or a reduction in its limit as the regulatory rules state, and that its communication of this subject wasn't sent to her in line with her contact preferences.

I've carefully thought about Miss P's comments here. I would first clarify, as our investigator did, that the correspondence Halifax sent Miss P in October 2021, July 2022, February and August 2024, and April 2025 identified her as a repeat user of the overdraft facility, rather than her being in persistent debt. The rules and regulations required Halifax to engage with Miss P when it identified this repeat pattern of use, making her aware of the pattern and that this may result in high avoidable costs.

The provision Miss P relies on where she suggests Halifax ought to have taken action in relation to her overdraft facility is specific to where a business not only identifies a customer as a repeat overdraft user, but also a customer who is showing signs of actual or potential financial difficulties.

Halifax has said it identified Miss P as a repeat user, but not as someone who was showing signs of actual or potential financial difficulties. Based on the available evidence and my findings above, I consider Halifax's assessment to be reasonable.

While I acknowledge there were some individual and short lived events that could suggest potential financial difficulty, I don't consider any of these instances or events were sustained

or consistently demonstrated, to the extent that it ought to have flagged with Halifax or led to it taking any further action than it did. The reality is that the handful of instances are spread out across a near ten year period. And I don't consider the individual events themselves are enough to have suggested Halifax ought reasonably to have concluded Miss P was a customer showing signs of actual or potential financial difficulty.

I consider its assessment that she was a repeat user, and its actions in sending her repeat use communication, were reasonable.

I acknowledge Miss P has said the repeat use communications weren't sent to her in line with her preferred communication methods. However, I've not been presented with any evidence which leads me to conclude this has led to any detriment. Miss P may say that had she received these communications that she would have changed her behaviours and management of the facility. But I must take into account that would be with the benefit of hindsight; and ultimately Miss P was aware of her overdraft use.

Miss P has also said she was using credit cards to afford basic living costs, so this could suggest that had Halifax taken further action by reducing the terms of the overdraft, that this would've had a detrimental impact on her financial position. In any event I do note, as I've found above, that Miss P's transactions through her Halifax account during the near ten year period I've reviewed continued to show many transactions on a monthly basis which would be considered discretionary. So, I consider it reasonable that Halifax could have taken this into account and reasonably concluded that Miss P's management of the facility could reasonably be reduced.

Miss P has made reference to Halifax's lack of intervention during signs of financial difficulties, and that it hasn't provided forbearance before or since she raised her complaint.

As I've found above, I don't consider the financial situation Halifax was, or ought reasonably to have been, aware of should have caused it concern, or led to it concluding Miss P was in actual or potential financial difficulties. However, my review of this complaint is only until June 2025 as Halifax hasn't had the opportunity to investigate and respond to any points about events after this date. So, if Miss P has concerns with Halifax's actions after June 2025, she will need to engage with it directly to allow it an opportunity to address these concerns.

Miss P has said Halifax failed to provide a final response to her complaint within the regulatory timescales. While I acknowledge this will likely have been frustrating, I've seen Miss P referred her complaint to our service before Halifax's final response was provided. So, it doesn't appear that this impacted Miss P in pursuing her complaint further within a reasonable period of time.

Summary

Ultimately when considering whether Halifax has acted unfairly in the provision of the overdraft facility or in any other way, I've not been presented with evidence which leads me to conclude it ought reasonably to have concluded the overdraft limits it provided were unaffordable for Miss P, or couldn't be repaid within a reasonable period of time. I've also seen no other evidence to suggest Halifax has acted unfairly in any other way during the term of the agreement.

I acknowledge my decision will be disappointing to Miss P; in no way is it intended to downplay the circumstances Miss P has told us about. But for the reasons I've set out above I don't consider Halifax acted unfairly by providing this overdraft facility, or has otherwise

treated her unfairly given the details. So, it follows that I'm not directing Halifax to take any further action in resolution of this complaint.

I would, however, take this opportunity to remind Halifax of its ongoing obligation to exercise forbearance and treat Miss P fairly and sympathetically in its engagement with her, and in the pursuit of any outstanding debt.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 21 May 2026.

Richard Turner
Ombudsman