

Complaint

Miss H has complained about the overdraft charges Nationwide Building Society (“Nationwide”) applied to her current account. She’s said the charges applied to her account were unfair as she was effectively living in her overdraft and wasn’t using it for short-term borrowing.

Background

Miss H originally applied for an overdraft in November 2017. At this point, the limit was £750 and over the course of the next few months, the limit was increased until it reached £1,750.00 in June 2018.

In March 2025, Miss H complained saying that Nationwide shouldn’t have given her this overdraft or increased her limit and doing so caused ongoing difficulty as charges were applied even when she wasn’t using the overdraft long-term.

Nationwide didn’t uphold Miss H’s complaint. It thought that part of Miss H’s complaint was made too late and that it didn’t do anything wrong in relation to the rest of the complaint. Miss H remained dissatisfied after Nationwide’s response and referred her complaint to our service. When Miss H’s complaint was referred to our service, Nationwide told us that we couldn’t consider part of it as it was made too late.

One of our investigators reviewed what Miss H and Nationwide had told us. He wasn’t persuaded that Nationwide had acted unfairly by providing an overdraft, increasing the limit, or allowing Miss H to use her overdraft in a way that was unsustainable or otherwise harmful. So the investigator didn’t think that Miss H’s complaint should be upheld.

Miss H disagreed with the investigator and asked for an ombudsman’s decision.

My findings

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

Basis for my consideration of this complaint

There are time limits for referring a complaint to the Financial Ombudsman Service. Nationwide has argued that Miss H’s complaint was made too late because she complained more than six years after the decision to provide the overdraft and all but the final limit increase and when some of the charges on the overdraft were applied, as well as more than three years after she ought reasonably to have been aware of her cause to make this complaint.

Having carefully considered everything, I’ve decided not to uphold Miss H’s complaint. Given the reasons for this, I’m satisfied that whether Miss H’s complaint about some of the specific charges applied was made in time or not has no impact on that outcome.

Having considered matters, I'm satisfied that it is reasonable to interpret Miss H's complaint as being one alleging that the lending relationship between Miss H and Nationwide was unfair to Miss H as described in s140A of the Consumer Credit Act 1974 ("CCA"). I consider this to be the case as Miss H has not only complained about the circumstances behind the application of the individual charges, but also the fact Nationwide's failure to act during the periods she alleges it ought to have seen she was using her overdraft long-term caused ongoing hardship.

I'm therefore satisfied that Miss H's can therefore reasonably be interpreted as a complaint that the lending relationship between herself and Nationwide was unfair to her. I acknowledge the possibility that Nationwide may still disagree that we are able to look at the whole of Miss H's complaint, but given the outcome I have reached, I do not consider it necessary to make any further comment or reach any findings on these matters.

In deciding what is fair and reasonable in all the circumstances of Miss H's case, I am required to take relevant law into account. As, for the reasons I've explained above, I'm satisfied that Miss H's complaint can be reasonably interpreted as being about that her lending relationship with Nationwide was unfair to her, relevant law in this case includes s140A, s140B and s140C of the CCA.

S140A says that a court may make an order under s140B if it determines that the relationship between the creditor (Nationwide) and the debtor (Miss H), 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. S140B 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 Miss H's complaint, I therefore need to think about whether Nationwide providing Miss H with an overdraft, increasing her limit or allowing her to use the overdraft in the way that it did, resulted in the lending relationship between Miss H and Nationwide being unfair to Miss H, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove any such unfairness.

Miss H's relationship with Nationwide is therefore likely to be unfair if it irresponsibly provided the overdraft or allowed Miss H to continue using her overdraft in circumstances where it ought reasonably to have realised that the facility had become unsustainable or otherwise harmful for her. And if this was the case, Nationwide didn't then remove the unfairness this created somehow.

I've therefore considered whether this was the case.

Did Nationwide act fairly and reasonably when providing Miss H with her overdraft and increasing her credit limit?

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 H's complaint.

Nationwide needed to make sure it didn't lend irresponsibly. In practice, what this means is Nationwide needed to carry out proportionate checks to be able to understand whether Miss H could afford to repay any credit it provided.

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 lend to a customer irresponsibly.

I understand that Nationwide agreed to Miss H's initial application after it obtained information on her income and carried out a credit search. And the information obtained indicated that Miss H would be able to make sufficient credits to clear the overdraft balance which could be owed at the respective times.

On the other hand, Miss H says that she shouldn't have been lent to or had her limit increased on the occasions that it was.

I've considered what the parties have said.

What's important to note is that Miss H was provided with revolving credit facilities rather than a loan. And this means that Nationwide was required to understand whether limits of up to £1,750.00 could be repaid within a reasonable period of time, rather than all in one go. It's fair to say that an overdraft limit of up to £1,750.00 would have required reasonably sized monthly credits in order to clear the full amount that could be owed within a reasonable period of time.

I understand that Nationwide will have carried out credit checks on Miss H. However, given the length of time, Nationwide no longer has a record of this information. In any event, I've not seen any indication and neither has it been argued that Miss H had any significant adverse credit information recorded against her during these times.

I also think that it is fair to say that Miss H's account statements around the respective times show that the account was in receipt of sufficient funds each month in order to clear an overdraft of up to £1,900.00 within a reasonable period of time.

I fully accept it's possible that Miss H's position might have been worse than what it looks like on the information on her statements. But this isn't apparent from the information before me. I also think that it wouldn't be fair and reasonable for me to use hindsight here, or say that Nationwide should have known this was the case at the time it was making its lending decisions.

As this is the case, I'm not persuaded that Nationwide acted unfairly when providing Miss H with an overdraft or increasing her limit on the occasions that it did.

I'll now turn to setting out my thoughts on whether Nationwide acted fairly and reasonably in allowing Miss H to use her overdraft in the way that she did.

Did Nationwide unfairly allow Miss H to continue using her overdraft in a way that was unsustainable or otherwise harmful for her?

Before I go any further, as this essentially boils down to a complaint that Miss H was unfairly charged as a result of being allowed to continue using her overdraft, I want to be clear in saying that I haven't considered whether the various amounts Nationwide charged were fair and reasonable, or proportionate in comparison to the costs of the service provided. Ultimately, how much a bank charges for its services is a commercial decision. And it isn't something for me to get involved with.

That said, while I'm not looking at Nationwide's charging structure per se, it won't have acted fairly and reasonably towards Miss H if it applied this interest, fees and charges to Miss H's account in circumstances where it was aware, or it ought fairly and reasonably to have been aware that there was a clear reason it would have been unfair to do so. I've therefore considered whether such a reason existed which would have resulted in Nationwide charging Miss H unfairly.

Having looked through Miss H's statements, it's clear that she has been using her overdraft since it was granted to her. I'm therefore satisfied that there can be no dispute that Miss H was using her overdraft over the period of time she's had it. Miss H's arguments appear to suggest that this in itself means that her complaint should be upheld.

However, while I've noted that Miss H has referred to not using her overdraft for short-term emergency borrowing, she's complained about an overdraft not a short-term loan. Indeed, Miss H's overdraft was arranged and was an open-ended agreement credit agreement. This means that Miss H had an agreement to use her overdraft and as a result she was entitled to use it without having to reapply to do so. This is different from say short-term loans which she would have had to repay over a fixed period and then make a further application for additional loans if she wanted further funds.

That said, I do accept that the rules, guidance and industry codes of practice all suggest that prolonged and repeated overdraft usage can sometimes be an indication of financial difficulty. However, it isn't always the case that prolonged and repeated overdraft usage by a customer will always mean that they are, as a matter of fact, in financial difficulty. Indeed, if that were automatically the case, there would be an outright prohibition on revolving credit accounts being open ended, rather than there being a requirement for a lender to review how the facility is being used.

It's also worth saying that one such instance where a lender would be expected to act is where it was clear that the customer was experiencing financial difficulty. Nonetheless, it would need to be objectively clear to the lender, rather than a matter open to interpretation, that the overdraft charges were clearly making things worse and they were harmful as a result.

I've therefore considered whether Nationwide acted fairly and reasonably towards Miss H, in this light. In other words, I've considered whether there were periods where Nationwide continued charging Miss H even though it ought to have instead stepped in and taken corrective measures on the overdraft as it knew, or it ought to have realised, that she was in financial difficulty.

Having looked through Miss H's account statements throughout the period concerned, I can't see that Nationwide ought reasonably to have realised that Miss H was experiencing financial difficulty to the extent that it would have been fair and reasonable for it to have unilaterally taken corrective measures in relation to Miss H's overdraft in the period prior to her making her complaint.

I'll explain why I think this is the case in a little more detail.

To begin with, I can't see Miss H notified Nationwide that she was struggling and that these charges were causing her difficulty prior to her complaint. If she had Nationwide would have known that the charges were causing harm and I would have expected it to act.

Nonetheless, even though I can't see that Miss H directly told Nationwide that she couldn't afford to pay these charges, I've considered whether her account activity ought to have alerted it to this being the case.

In considering this matter, I'm mindful that in order to help with determining whether it is objectively the case that a customer was experiencing financial hardship, the regulator has set out guidance on what it considers to be potential indicators of financial difficulty. The '*Guidance on financial difficulties*' states that things such as a customer failing to meet consecutive payments to credit, being unable to meet their commitments out of their disposable income, having adverse credit or other insolvency information recorded against them, or being in a debt arrangement should be considered as potential signs of a customer being in financial difficulty.

However, having looked at Miss H's account transactions, I've seen no indication that any of the potential signs of financial difficulty contained in the guidance, were obviously present in her circumstances during the entire period I've looked at. I also can't see anything in Miss H's account transactions which suggest that Nationwide should have known that she was borrowing from payday or other high-cost lenders, which although not contained in the regulator's guidance, is generally accepted to be an indication that a borrower could be struggling too.

I've also looked at Miss H's incomings and outgoings as well as her overdrawn balances and determined whether it was possible for her to have stopped using her overdraft, based on this. I think that if Miss H was locked into paying charges in circumstances where there was no reasonable prospect of her exiting her overdraft then her facility would have been unsustainable for her, even where the indicators of financial difficulties I've set out above weren't clearly present in her circumstances, when looking at the account transactions.

In reviewing this matter, I've noted that throughout the period of time I'm looking at, Miss H's account was in receipt of credits that were sufficient to clear the overdraft within a reasonable period of time. Indeed, I'm satisfied that Miss H's case isn't one where a borrower was marooned in their overdraft with no reasonable prospect of exiting it.

Furthermore, while I'm not seeking to make retrospective value judgements over Miss H expenditure, there are significant amounts of non-committed, non-contractual and discretionary transactions going from Miss H's account. Miss H also appears to have been transferring funds to other accounts that she had too.

I accept that Miss H may well have had other credit commitments at this time. But this in itself does not mean that she was reliant on credit to meet her essential expenditure. And it isn't immediately obvious to me that Miss H was borrowing from unsustainable sources – such as payday type lenders – in order to pay for the charges, or meet other committed expenditure either.

Of course, I accept neither of these things in themselves (or when taken together) mean that Miss H wasn't experiencing difficulty. But I don't think that Miss H's account conduct and overdraft usage obviously show that she was. And bearing in mind I'm satisfied that it is more likely than not that Miss H did not directly tell Nationwide that she was experiencing financial difficulty, that's what I'd need to be persuaded of in order to uphold her complaint.

Looking from the outside, it looks like Miss H had the funds to be able to reduce the amount that she used her overdraft. It's also clear that Miss H had another account and the funds in it would have enabled her to reduce her overdraft usage too. So, in these circumstances, Nationwide was reasonably entitled to conclude that Miss H was choosing to use her overdraft rather than it being the case that she had become reliant on it.

Therefore, I don't think that Miss H was obviously locked into using her overdraft and paying the charges for doing so. In my view, there was a reasonable prospect of Miss H exiting her overdraft. And Nationwide was reasonably entitled to believe that Miss H was choosing to use her overdraft in the way that she was, rather than a case that her financial circumstances meant that she had no choice other than to do so.

Overall and having considered everything, I don't think that it was unreasonable for Nationwide to have added the overdraft charges that it did. I say this because I don't think that it would have been proportionate for Nationwide to demand that Miss H immediately repay her overdraft and if not defaulting her account, in circumstances where, from the outside at least, it appears as though there was a realistic prospect of Miss H clearing what she owed in a reasonable period of time.

So overall and having considered everything, while I can understand Miss H's sentiments and appreciate why she is unhappy, I'm nonetheless not upholding this complaint. I appreciate this will be very disappointing for Miss H. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 13 April 2026.

Jeshen Narayanan
Ombudsman