

## complaint

Miss K complained that Bank of Scotland plc, trading as Halifax, gave her a secured loan which wasn't affordable. She wants the loan written off.

## background

Miss K had a mortgage with Halifax. In May 2017 she applied for a further advance for £37,000. This was made up of:

- £34,850 to pay off eight different debts; and
- £2,150 for home improvements.

There was a special condition in the offer which said:

*"You have declared an intention to repay some or all of your outstanding credit commitments. The mortgage advance has been assessed on this basis and it is your responsibility to ensure that these commitments are repaid. Completion takes place on the condition that such repayment takes place."*

Soon after the further advance completed, Halifax realised that it had made a mistake when entering Miss K's application on its computer. It hadn't recorded that Miss K had two dependant children, though it had recorded child-related benefits as part of Miss K's income.

Halifax's underwriting team reviewed the case with the corrected information. It said that if Miss K was happy to continue, the account should be monitored. Halifax phoned Miss K and told her what had happened, and said that the bank would monitor the account. Miss K accepted the explanation and didn't raise a complaint.

Some 10 months later, Miss K complained. She said the £37,000 further advance had been unaffordable and she wanted Halifax to write off the loan.

Halifax didn't reply to Miss K's complaint within eight weeks, so it told Miss K that she had the right to complain to this service. So she got in touch with us. She told us about Halifax's phone call saying it had made a mistake, and she said she wanted the secured loan written off. Miss K told us she hasn't missed a payment, but has taken out more credit since the Halifax further advance.

The adjudicator didn't uphold Miss K's complaint. She agreed that Halifax hadn't included Miss K's children, which affected the bank's affordability calculator. But she didn't believe that the extra borrowing had increased Miss K's monthly expenditure. The debt consolidation had allowed Miss K to reduce her monthly outgoings significantly. It had offered a structured way of ensuring the debts could be paid off. Overall, it would have saved Miss K £500 a month, so she'd benefited from the loan.

The adjudicator recognised that the further advance had initially been offered in error, but she didn't think Halifax had put Miss K in a worse position that she'd have been in, if she'd continued with her unsecured debts which the loan was intended to consolidate. And Halifax had confirmed that Miss K's mortgage was affordable at the current rate.

The adjudicator also noted that Miss K hadn't complained to Halifax until 10 months later. She asked Miss K to provide evidence that she'd paid off the debts she'd listed to Halifax. Miss K provided evidence for some, but said she'd used some of the money for other things instead.

Miss K wasn't satisfied with the adjudicator's view. She said that if Halifax hadn't made a mistake, she wouldn't have been given the loan. She said that as she hadn't met the affordability criteria, Halifax wouldn't have allowed it as it would have been breaking the law. She also said that although the loan meant paying less each month, it was over a longer period, and she wouldn't have the child-related benefits for the whole term of the loan because her children were over age 16.

## **my findings**

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

Halifax made a mistake when it didn't record that Miss K had two children. It knew that she had them, because part of her income was child-related benefits, so it should have recorded this.

But I've looked at the impact of this. I've read Halifax's underwriters' assessment once the bank realised what had happened. I note that, as the underwriters recommended, Halifax got in touch with Miss K and told her about it, and said her account would be monitored. Miss K's mortgage didn't go into arrears, and the bank has said it considers the loan affordable.

The purpose of nearly all of Miss K's £37,000 further advance was to consolidate eight other debts. Miss K had been paying a higher interest rate on these, than on the new consolidated Halifax loan. She was paying around £500 less a month than if she hadn't had it – a considerable saving. The Halifax further advance had a fixed term of around ten years, which meant that there was a planned way of repaying money which Miss K owed and had to repay. So Halifax's error meant that Miss K had a opportunity to get her debts under control. She benefited from a loan which should have reduced the repayments on her debts by £500 a month, and she continued to be able to pay her mortgage.

Getting the Halifax loan was an advantage to Miss K, not a disadvantage. I don't find that Halifax broke the law as Miss K believes. I also note that the bank considers Miss K's mortgage affordable, and that at the time Halifax told Miss K about its error, in mid 2017, Miss K accepted the plan for the bank to monitor the account.

Importantly, however, Miss K has told us that she didn't pay off all eight loans which the Halifax further advance was intended to consolidate. These totalled £34,850. As I've set out above, the further advance had a special condition which specifically said that Miss K was to use the money to repay the debts she'd told Halifax about. Miss K wasn't able to provide the adjudicator with proof that she'd complied with this very specific requirement. She told the adjudicator she'd used some of the money for other purposes instead.

So Miss K broke the conditions of the further advance. And as she didn't repay all her debts, she couldn't have got the full £500 a month benefit from having paid off her more costly debts and making lower overall monthly payments. By not paying off the more expensive debts as she'd agreed to do, Miss K was much more likely to struggle. I consider that this, and not the original loan, was why she didn't complain to Halifax until some ten months later. Halifax wasn't to blame for this.

Finally, I recognise that Miss K has said that the further advance was over a longer period than the other debts, and she won't have child-related benefits once her children become

financially independent. I can't comment on what benefits Miss K has now, or might have in future. But Miss K can discuss her financial situation with Halifax, providing it with full details of her income and expenditure, if she experiences financial difficulties in future.

**my final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 25 February 2019.

Belinda Knight  
**ombudsman**