

complaint

Mrs C complains that Bank of Scotland plc ("Halifax") did not treat her fairly in that it allowed her to borrow £5,000 despite knowing she had a gambling problem. She also complains the bank will not allow her to withdraw money credited to her account on behalf of a third party, causing her distress and inconvenience. She would like the bank to waive her £5,000 debt and allow her to withdraw funds to pay the third party.

background

Between 30 September 2016 and 1 October 2016, Mrs C made a series of online credit applications which left her with a £5,000 overdraft. She says she had told the bank about her gambling problem, and that it should have placed a marker on her file to prevent her from accessing credit. She also says that £1,249 was paid into her account for a third individual, who has demanded repayment. She would like the bank to let her withdraw that money.

Halifax has said that there is nothing in its records to show Mrs C told it about her gambling problem, and that the lending was approved on the basis of information available at the time of the applications. It has let Mrs C withdraw £250 to pay the third party, but says it's not obliged to let her withdraw more funds. It has offered to discuss repayment arrangements for the debt, and to consider requests for help with living expenses.

Our adjudicator did not recommend that this complaint should be upheld. She did not consider that Mrs C had shown that she had told Halifax about her gambling problem before making the credit applications. Because Halifax wasn't aware of the gambling problems, it was entitled to assess the online applications on the basis of information provided, and approve the lending it did. She also did not consider that Halifax was obliged to allow Mrs C to withdraw money to pay the third party as this debt is a private matter between Mrs C and that person.

Mrs C does not agree, saying Halifax had previously refused an application from her, so should have been consistent in how it treated the subsequent applications.

my findings

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

Mrs C has raised three issues in her complaint, and I've addressed these in turn, below.

whether Halifax knew about the gambling problem

Mrs C says she told Halifax about her gambling problem in a phone call to the bank. Halifax has searched its records, but says it can't find anything to show that she had told it about the problem. It has asked Mrs C to give it a date or week in which she would have made that call, but Mrs C has not yet done so. Without anything to show that Mrs C told the bank about her problems, I can't say that the bank was aware of them, or that it should have taken steps to mark this on her file and take protective measures such as refusing credit applications.

whether the lending was otherwise irresponsible

Mrs C has said that given her circumstances, and previous credit refusals, Halifax should not have given her a £5,000 overdraft. Halifax has provided evidence that all the overdraft applications were made online, and that Mrs C had overstated her monthly income as being £16,700. On the basis of this, and other information, Mrs C qualified for the amounts she had applied for. She did not have a conversation with a bank representative so there were not opportunities to uncover the income error.

Mrs C has said that the bank was inconsistent in its refusal of an earlier application, but then approval of the online applications. But a prior refusal will not necessarily mean all future approvals will be refused. Based on the information available to it, Mrs C met the bank's lending criteria. Banks are entitled to set that criteria using commercial judgement and I can't find that Halifax acted unreasonably in applying it to Mrs C's applications. Because Mrs C has had the use of the money, she is liable to repay it. I note that Halifax has offered to discuss sustainable repayment arrangements with her, and I consider this to be fair and reasonable in the circumstances.

whether Halifax should allow Mrs C to withdraw further funds to repay another person

Mrs C has said that a credit of £1,249 was made to her account for another person, who has since demanded repayment of that money. I appreciate this has placed Mrs C in a difficult situation, but I can't see this is because of any error by Halifax. This was a private arrangement with another individual and while it is very unfortunate that Mrs C doesn't have the money, it's not something which involves the bank.

In asking for more money, she is effectively asking for further credit from the bank. Given what Halifax now knows about her situation, it would not be reasonable or responsible for the bank to lend her more money. Halifax did allow Mrs C to withdraw £250 to use as a part-payment but I agree with the bank that if she is having further difficulties with the individual, it would be more appropriate for her to contact the Police.

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 Mrs C to accept or reject my decision before 9 February 2017.

Catherine Wolthuizen
ombudsman