

## **complaint**

Mr M complains that Bank of Scotland plc (trading as Halifax) was irresponsible in providing an overdraft to him and has unfairly recorded a default.

## **background**

Mr M had an overdraft which was increased in 2011 and 2013. In 2013 he told Halifax about his financial difficulties and made a separate complaint. As part of the resolution for that complaint it agreed a temporary overdraft limit of £1,200 which was to reduce by £103 a month and be cleared in a year. Only the first reduction was made. Mr M made this complaint in October 2017 after his account had been defaulted. Halifax recognised that it had not stuck to what it said it would before and agreed to write off the debt outstanding of £1,134.09.

The investigator said that we had to observe time limits when dealing with complaints. We could not look at events that happened more than six years ago. Or if later more than three years after the complainant was reasonably aware of a cause for complaint.

Mr M complained to Halifax in October 2017. He had an overdraft of £850 by September 2011. More than six years had passed since then. And in 2013 he contacted it about his financial situation. So it was reasonable to think he knew he had cause to complain more than three years ago.

Halifax had objected to us looking at the original lending decision. But the facility was increased in November 2011 to £900, in February 2013 to £1,100 and then in May 2013 as referred to above. All these increases are in time for us to look at.

But he didn't think it had acted irresponsibly in providing these increases. Halifax said it would have taken into account information from credit reference agencies. He noted Mr M was then in a debt management plan. He didn't see that Halifax had been made aware of this. And he thought that the resolution offered by Halifax was fair.

Mr M did not agree. He said that it was not fair to say he should have realised sooner as he had no education about this. There were a number of defaults on his credit record. His debts were more than his salary. He only realised that it had been irresponsible in October 2017. He does not think that the adverse information should be shown on his credit record.

## **my findings**

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

First I need to decide what we can and can't look at here. We operate under a set of rules established by the Financial Conduct Authority. We must follow them. I agree with how the investigator has interpreted these. I think Mr M reasonably knew he had cause to complain about the original overdraft in 2013. And that's especially as the resolution to a different complaint then involved a stepped reduction to that balance. I don't think that there are any exceptional reasons why he could not have referred a complaint to us about this earlier.

I am not clear whether the debt management plan Mr M was subject to restricted him borrowing more. But the overdraft limit was increased. He seemed at the time to have a

regular income and his account balance was fluctuating. I'm not persuaded that the increases in the overdraft were irresponsible.

Halifax has written off the debt and I asked it to explain its position on the default. It told me that Mr M would have been aware that the agreed reduction to the overdraft was not happening. He didn't ask for this reduction to be reinstated in further years. He could have chosen to repay this himself and did not do so. The default was an accurate reflection of what happened and it was not prepared to remove this.

I've considered this carefully. The write off of the debt was a gesture of goodwill especially as Halifax says that there was no guarantee Mr M would have kept to a stepped reduction had this been put in place. In fact he went on to continue to use the overdraft facility and there was regular income credited to his account until April 2016. After that point things deteriorated and there was a default applied. I'm afraid I don't have a reasonable basis to say that this should not have been recorded.

### **my final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 30 April 2018

Michael Crewe  
**ombudsman**