

complaint

Mr L complains that Bank of Scotland plc (trading as Halifax) lent to him irresponsibly when it increased his overdraft. He'd like Halifax to reduce or write off his overdraft. Mr L has brought his complaint through a relative.

background

Mr L has a current account with Halifax. In the autumn of 2013 he started gambling. Within a couple of months, he went from having a healthy credit balance of more than £2,000 to being overdrawn. He made a couple of unsuccessful applications for an overdraft in March 2014 before Halifax granted him an overdraft of £200. It then increased the limit to £250 later the same day. From mid-March to early May 2014 Mr L made ten unsuccessful applications to increase the limit. But then, over a two-day period in early May, Halifax approved 17 successive applications to increase the limit, taking it from £250 to £3,900. Mr L quickly spent up to the new limit.

Mr L says he has no realistic prospect of repaying the money. He considers that Halifax acted irresponsibly in increasing his overdraft when it should have been clear from his statements that he was using the money to gamble. The statements also show that he was using payday loans. He doesn't understand why Halifax suddenly agreed to such a large increase in his overdraft limit when it had previously declined so many applications.

Halifax says that Mr L made all his overdraft applications on line. Decisions on overdraft requests made on line are computer-generated and use a credit scoring process which takes into account how the accountholder manages the account and information from credit reference agencies. It says its credit policy is a matter for its commercial judgment. And it followed that policy when it approved Mr L's applications. Mr L hadn't contacted it about his gambling problem before it agreed to the overdraft increase. And it wouldn't refuse to lend to a customer purely because they used payday loans. It's up to the customer whether to use an overdraft facility. If they choose to use it, it expects them to take responsibility for their spending.

our adjudicator's view

Our adjudicator didn't recommend that the complaint should be upheld. She didn't think Halifax had made any mistake when it increased Mr L's overdraft facility. And she was satisfied that it had complied with the Lending Code and its own internal procedures in agreeing to the increases. She explained that since we're not a regulator, we don't have the power to require a bank to change its internal procedures.

But she'd spoken to Halifax, and it was willing to transfer Mr L's account to its Consumer Debt Recovery team (CDR). If it did so, no further charges or interest would be added to the account and Mr L would be able to arrange a more flexible repayment plan. She added that Halifax doesn't usually offer to do this until an account has been in arrears for 6-12 months, but it was willing to make an exception in Mr L's case. She warned Mr L that if he took Halifax up on its offer, it would be likely to register information about his account with credit reference agencies and that the information would remain on his record for six years.

After further consideration, the adjudicator wasn't satisfied that Halifax had lent responsibly to Mr L. But she commented that he'd had the benefit of the money and legitimately owes it to Halifax. So she didn't think it would be fair to require Halifax to write off the overdraft. She

was satisfied that Halifax's offer to transfer Mr L's account to its debt recovery team was appropriate, as all interest and charges would then be frozen.

Mr L isn't happy with the adjudicator's findings. He's reiterated that the increase in his overdraft limit was sudden and substantial. And he says that due to the nature of his gambling addiction, he didn't receive any benefit from the money. It was given to him instantly, allowing him to spend the equivalent of half a year's salary in a few hours. He thinks that such a large increase in overdraft should be considered by a member of Halifax's staff, rather than computer. It should have been clear to the bank that he was acting very irresponsibly with his money at the time.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I've reached the same conclusion as the adjudicator.

Mr L considers that if his overdraft applications had been assessed by a human being, Halifax would have realised he had a gambling addiction. Essentially, he considers that Halifax had a duty to help him control his behaviour by refusing to increase his overdraft limit. But Halifax used its normal processes to agree to the increases in overdraft. As the adjudicator explained, we can't require it to change those processes.

I acknowledge what Mr L says about not having had the benefit of the money, and I understand his point. But he borrowed the money and spent it. Banks don't have any general duty to their customers to restrict or monitor the use they make of an overdraft or other borrowing facilities. I have sympathy for Mr L and don't underestimate the difficulties that he finds himself in. But I don't consider it would be fair or reasonable to require Halifax to write off the overdraft.

A bank does, however, have a duty to treat its customers positively and sympathetically once it becomes aware that they are experiencing financial difficulties. I consider that Halifax has complied with that duty by offering to transfer Mr L's account to its debt recovery division. As the adjudicator explained, this would have the effect of freezing further interest and charges on the account and would enable Mr L to work out an affordable repayment plan. Mr L should contact Halifax if he wishes to take up its offer.

my final decision

For the reasons set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr L to accept or reject my decision before 23 February 2015.

Juliet Collins
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