

complaint

Mr H and Miss W complain that Bank of Scotland plc, trading as Halifax, didn't review their financial situation or provide assistance when they approached the bank for help in previous years. They would like Halifax to write off, or reduce their overdraft.

background

Mr H and Miss W said they have suffered financial difficulties for many years and incurred charges. They said they approached Halifax in branch for assistance in 2010/11 and in 2013 and 2015, but were offered no help. They said they asked again in December 2017 and after some discussions were offered a repayment plan which has helped them to manage their debts – they said this should've been offered to them previously in line with the regulations.

Halifax has provided its contact records for the last 10 years and this shows:

- January 2009 - *'Rebecca does not need an account review for foreseeable future, she is fine with everything and been in on numerous occasions. Gemma Downend'*.
- Appointment with HLR 23/08/2013 – *'Spoken to cust in branch today regarding funds being paid in of £26451.50 being paid in from Ander-Teknix engineering, cust will be using some of the funds to pay of various debts - cust unsure of the exact amount at this stage possibly approx 16k - a this stage cust unsure of timescales etc so advised to pay into savings account for security and to start earning interest at rate of 0.75 % - all terms and conditions explained, s4u apt booked and fulfilled. HLR'*.
- Phone call from Halifax, March 2015, *'message left to call jayne at downend branch to review account, lots of gambling transactions and excess and returned fees. full review needed.'*

Mr H and Miss W said Halifax told them it couldn't help due to their credit file. Halifax said it didn't have a record of Mr H and Miss W advising the bank of financial difficulties. Halifax said it's not entitled to see customers' credit files unless there's an application for credit and so wouldn't know about adverse markers. It said Mr H and Miss W's only application for credit was in April 2013 for an increased overdraft, but this was processed online and didn't need a credit reference. Halifax said customers have always been able to speak to its customer support unit about financial hardship and it would assess income and expenditure.

The investigator didn't recommend the complaint be upheld, saying Halifax's records don't show a request from Mr H and Miss W for help. Halifax wanted to review their account in March 2015 but she said there's no record of its call being returned. She'd listened to calls from December 2017 and Halifax hadn't said its new charges meant it had flexibility to offer a repayment plan, and Miss W had said this was the first time she'd spoken to Halifax about the difficulties with charges, and said they'd been in difficulty for about two years.

Miss W asked for her complaint to be looked at again. She said Halifax's branch manager had said there was nothing he could do and wouldn't have made a record and so her call in December 2017 was the first time she'd spoken about their finances. She said Halifax hasn't acted responsibly in not telling customers they are nearing their overdraft limit, and not reducing the amount owed. She said they've paid more in interest than the overdraft. She said she'd proved they were in financial difficulty and that other creditors had helped them.

She said as she'd dealt with banking in branch it didn't occur to her to ring anyone. She said she expected the bank to be proactive in their situation as required by new regulations.

my findings

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

I have looked carefully at the records of contacts between Mr H, Miss W and Halifax to see if Halifax has responded to requests for assistance. Lenders are required to respond positively to requests for help from customers. I have seen in similar circumstances that Halifax has been prepared to offer assistance to its customers with their difficulties. When a request for assistance is received we would expect the lender to carry out an income and expenditure assessment so that it can decide what if any assistance is appropriate in the customer's circumstances.

On her phone call to Halifax on 29 December 2017 Miss W was taken through the income and expenditure review and offered a repayment plan and bank charges were frozen. This has helped her and Mr H to manage their situation, but they feel that assistance should've been offered before.

Miss W said that until December 2017 she only spoke to Halifax branch staff and so no record of her financial difficulties was kept. I have no reason to doubt that Miss W raised her financial difficulties in branch, but the branch does keep records and I would expect to see a request for assistance. Unfortunately there's no evidence of such a request, so I can't say that Halifax has failed to respond. It is worth bearing in mind that it doesn't necessarily follow that Halifax would have offered assistance in Mr H and Miss W's circumstances had a review taken place.

Mr H and Miss W expected Halifax to offer them similar assistance to the other businesses that helped them and said that Halifax should have been proactive in identifying that they needed a more affordable way of repaying their overdraft. I can see their disappointment at the lack of help from Halifax in comparison to other businesses, but it remains the customer's responsibility to manage their account and Halifax isn't required to intervene unless credit facilities have become unmanageable.

I can see that Mr H and Miss W are working hard to meet their liabilities and I'm pleased that their arrangement with Halifax has helped them to manage their debts. I sympathise with Mr H and Miss W for the prolonged financial difficulties they have faced, and the many years they have incurred charges on their overdraft, but I haven't seen any evidence that Halifax has failed to respond to requests for assistance and so I can't require Halifax to take any further action.

my final decision

For the reasons I have given it is my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H and Miss W to accept or reject my decision before 30 December 2018.

Andrew Fraser
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