

Complaint

Mr W has complained that Bank of Scotland plc (trading as "Halifax") unfairly added interest, fees and charges to his overdraft charged when it introduced a new overdraft charging structure in November 2017. He's also unhappy that his account was closed and that this caused him to be able to access funds from a loan.

Background

One of our adjudicators looked at this complaint and thought Halifax should have realised that Mr W's overdraft had become unsustainable for him before it introduced the change to its charging structure, in November 2017. So it needed to refund all the interest, fees and charges it added to Mr W's overdraft from this point. However, the adjudicator didn't think that had unfairly closed the account.

Both Halifax and Mr W disagreed with our adjudicator. So the complaint was passed to an ombudsman for a final decision.

My findings

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

Overdraft interest, fees and charges

Halifax will be familiar with all the rules, regulations and good industry practice we consider when looking at whether a bank treated a customer fairly and reasonably when applying overdraft charges. So I don't consider it necessary to set all of this out in this decision.

Having carefully considered everything provided, I do think that Halifax acted unfairly when it continued charging overdraft interest and associated fees when it applied the new pricing structure to Mr W's overdraft in November 2017.

By this point, Halifax would have seen that Mr W had been 'hardcore borrowing' for a number of months. In other words, Mr W's account remained persistently overdrawn for lengthy periods without really returning to credit. Halifax has referred to Mr W's account having been well-managed and that Mr W could have chosen to remove or reduce his overdraft. But it's clear that this wasn't happening. And I simply don't agree that a consumer who is significantly overdrawn for extended periods is managing their account well.

Equally, I would also point out that the influx of funds which Halifax has referred to came from other borrowing and were used to pay existing creditors. I don't think a customer borrowing further to repay existing credit is a sustainable way of repaying what they owe and this is clearly set out in the rules and guidance in place at the time. I especially think this is the case as the final funds to come into the account appear to have come from Mr W taking out a guarantor loan with a high-cost credit provider. And I don't think that this is indicative of a customer who is in a strong financial position, or running a well-managed account.

So I think that when Halifax introduced its new pricing structure in November 2017, it ought to have seen that Mr W was already struggling to manage his overdraft and treated him with forbearance rather than adding increased interest, fees and charges to what he owed.

As Halifax didn't react to Mr W's overdraft usage and instead the new charging structure, I think it failed to act fairly and reasonably towards him. And as this led to Mr W paying additional interest, fees and charges at a when he was already experiencing difficulty, I'm satisfied that he lost out as a result of Halifax failing to act fairly and reasonably towards him. So Halifax needs to put things right.

Fair compensation – what Halifax needs to do to put things right for Mr W

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mr W's complaint for Halifax to put things right by:

- Reworking Mr W's overdraft balance so that all interest, fees and charges applied to it from November 2017 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Halifax should contact Mr W to arrange a suitable repayment plan for this. If Halifax considers it appropriate to record negative information on Mr W's credit file, it should reflect what would have been recorded had it started the process of taking corrective action on the accounts from November 2017.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr W along with 8% simple interest† on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then Halifax should remove any adverse information from Mr W's credit file.

† HM Revenue & Customs requires Halifax to take off tax from this interest. Halifax must give Mr W a certificate showing how much tax it has taken off if they ask for one.

The closure of Mr W's account

Mr W is also unhappy that Halifax closed his account when it did. He's said that this caused him difficulty and led to him being unable to access the funds from a loan. I've carefully thought about what Mr W has said.

While I sympathise with any difficulties Mr W may have had a result of his account being closed, it does look as though Halifax merely acted upon the instructions it received. I understand that Mr W opened a new account with another bank and used the current account switching service. And Mr W's new bank appears to have told Halifax that Mr W wanted to close his Halifax account as part of the switch. Unfortunately, Mr W's new account doesn't appear to have been opened by the time of the date specified for the switch and therefore the date the Halifax account was to close. This is why Mr W was temporarily left without an account.

I appreciate that this would have caused Mr W some inconvenience, especially as it took him some time to be able to access the proceeds of a loan. But while Mr W might have had these difficulties, I don't think that this was as a result of anything Halifax did wrong as it was

merely acting upon Mr W's request to switch and the notification from Mr W's new bank that he wanted his Halifax account closed. As this is the case, I'm not upholding this part of Mr W's complaint.

My final decision

For the reasons I've explained, partially upholding Mr W's complaint. Bank of Scotland plc should put things right in the way I've set out in the '*Fair compensation – what Halifax needs to do to put things right for Mr W*' section of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 13 October 2021.

Jeshen Narayanan
Ombudsman