

## **complaint**

Mr C complains that about the lending that Bank of Scotland plc ("BoS") made to him. This complaint deals with his overdraft.

## **background**

Mr C said that he was given bad advice by BoS about consolidating his debts, then allowed to borrow again. He has complained to our service about a mortgage, a loan, a credit card account and an overdraft. He wants BoS to accept that it gave him bad advice, and to pay him compensation.

Mr C has told us about difficulties with his personal and family circumstances, which mean that he is facing a likely reduction in his income. He has told BoS about these problems, and in response it has brought his existing debts in house. It says that it won't involve agents in collecting on these debts in future. It also froze the charges on his current account in July 2018, and it said it would like him to set up a repayment agreement.

In addition, Mr C has told BoS that he has a gambling addiction. He says he'd told BoS about that in 2010, when he went into a branch to extend his mortgage, so he thought it should've taken that into account each time he asked it to loan him more money. He said that the lending that BoS had made had only fuelled this addiction, and he thought that BoS was partly responsible for that.

BoS said it didn't think Mr C had told it that he had a gambling addiction before 2018. It said that it doesn't monitor its customers' accounts to see what they are spending their money on.

But BoS said that it had lent Mr C some money, through a loan, in 2014. It thought that this loan was intended to pay off his credit card, and his overdraft. But it hadn't reduced his overdraft or his credit card limit then. BoS said that when Mr C started to use his overdraft and his credit card again, the total amount of lending he then had may have become unaffordable for him as a result.

So BoS did something about that. It said that it would refund all the overdraft and credit card charges it had applied to Mr C's current account and credit card account since July 2014. Separately, it had also offered to refund just the overdraft fees. That meant that BoS was actually "refunding" £418.83 more than Mr C had been charged. But when it realised that, it said that it would pay all the money it had offered him.

BoS used some of the refund to repay all of Mr C's credit card borrowing, and it closed his card account. It used the rest to repay part of Mr C's overdraft, and it reduced his overdraft limit at the same time.

BoS said that Mr C's current account is in arrears, and it will still take recovery action on the remaining amount that he owes.

BoS also told us that Mr C had had an overdraft on his account for some time. But it would only consider lending decisions it had made after 2012. It thought that it was too late now for him to complain about earlier overdraft lending decisions.

Our investigator didn't uphold this complaint. He said that Mr C's overdraft was increased from £2,000 to £2,600 in October 2014, but he said that BoS had checked, and the lending was affordable for Mr C at that time.

Our investigator said that BoS should've significantly reduced Mr C's overdraft a few months earlier, when he took out a loan to clear the overdraft lending. Our investigator thought that BoS made a mistake when it failed to do that. But he said that BoS had refunded all of the fees that Mr C had paid on his overdraft since that loan was made, in July 2014. And he had been refunded an additional £418.83. So our investigator thought that BoS had done enough to make up for what had gone wrong.

Our investigator said that he couldn't see any evidence that Mr C had told BoS about his gambling addiction before 2018. So he couldn't say that BoS had done anything wrong.

Mr C didn't agree with that. He said that BoS has been harsher on itself than our service has. He wanted an ombudsman to consider his complaint, so it was passed to me 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. I've reached the same overall conclusion on this complaint as our investigator, and for broadly the same reasons.

The overdrafts on Mr C's account that I'm aware of date back to 2011. Our service has explained to Mr C that we can't consider, as part of this complaint, lending made to him that long ago. But Mr C's overdraft increase from £300 to £2,000 made in October 2012, and the subsequent increase to £2,600 made in October 2014, can be considered as part of this complaint.

I've asked BoS whether it has any records of Mr C telling it that he had a gambling problem before 2018. It says it doesn't. And I haven't been able to identify any evidence that Mr C did tell it this earlier. But BoS has now shared with our service the statements from a cardcash account, which over the six years preceding this complaint seems to have been used almost exclusively for gambling transactions. Although BoS says it doesn't micromanage its customers' accounts, it would be difficult for me to conclude both that BoS wasn't aware that Mr C was spending substantial sums in this way, and that it shouldn't have been aware of that.

However, BoS has also said that gambling is a legal and legitimate form of entertainment. I don't think that BoS should've refused to lend to Mr C, solely because it could see that he was spending money on gambling transactions.

I can see that Mr C has mentioned when talking to BoS about the lending it made to him, that he has previously had arrears, defaults, and two attempts to repossess his home. I don't know when those problems happened. I can see that Mr C had problems repaying debts after 2015, but I don't have evidence to suggest that he was having financial difficulties before this.

So I asked Mr C if he would share with our service his full credit file, so I could consider his overall borrowing position at the relevant time, when I looked at each decision that BoS had made to lend him money. Mr C has sent us an overview of his credit file, but not the full file.

So I don't have the detail which would allow me to see his overall credit position when he made lending applications to BoS.

Our service has explained to Mr C that without this, we wouldn't be able to double-check whether BoS took account of the wider picture when it lent him money. Mr C has asked us to go ahead and make a decision on the basis of the evidence we have, so I will do that.

I've said that I'm considering two increases to Mr C's overdraft. One of those was made in October 2012, when his overdraft was increased from £300 to £2,000. The second was in October £2,600 when his overdraft was increased from £2,000 to £2,600.

BoS has repaid all of the fees that Mr C paid for overdraft borrowing after July 2014, because it said that it should've removed his overdraft then, when it made a loan to him that was supposed to be used to clear that overdraft. That's what I'd expect BoS to do, if it wasn't sure that it had lent this money responsibly. I think that provides a fair outcome to that part of Mr C's complaint.

So the main issue I have to consider is whether BoS should've lent Mr C money by increasing his overdraft in October 2012.

BoS has sent calculations showing Mr C's overall financial position when it agreed to increase his overdraft. I can see that he owed money to a different bank, for a credit card, and to BoS for a loan. But it appears to me, from the information I have, as if BoS has a clear view of the amount of money Mr C was being paid at that time, and the lending that had already been made to him. And it looks as if there was then some surplus which could be used to repay a larger overdraft. I don't think that I can say, on the information I have, that its more likely than not that this overdraft wasn't affordable for Mr C. So I don't think that BoS has to do anything more.

I know that Mr C will be disappointed by my decision about the overdraft lending made to him, but I don't think that I can conclude that BoS acted irresponsibly by extending his overdraft in 2012.

I do think that BoS made a mistake when it failed to reduce Mr C's overdraft in 2014, even though it had made him a loan intended to pay that overdraft off. I also think it made a mistake when it subsequently allowing him to extend the overdraft further. But I think that BoS has accepted that. And it has already done what I would expect it to do, to make up for that. So I don't think it has to do any more now.

I'm sorry to have to tell Mr C that I don't think his complaint about the overdraft lending made to him by BoS should be upheld.

**my final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 27 March 2019.

Esther Absalom-Gough  
**ombudsman**