

## **complaint**

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

## **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 said 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 when 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 it had made earlier loans to Mr C, but it thought that it was too late for him to complain about those now.

Our investigator didn't uphold this complaint. He said that BoS had lent Mr C £15,000 in July 2014, but he said that BoS had checked, and the lending was affordable for Mr C at that time. Our investigator said that he'd looked at the figures too, and he thought that the loan

payment was within Mr C's budget and affordable at the time. Our investigator said he wasn't aware of any negative data on Mr C's credit file that would suggest BoS shouldn't have made the loan at that time.

Our investigator said he'd also looked at Mr C's bank statements, and from December 2013, for the majority of the time, Mr C was in credit. He'd used a significant amount of his overdraft from May 2014, but the purpose of the July loan was partly to clear that overdraft, so he couldn't say that BoS had done something wrong.

Our investigator said that he'd looked at the payment history on the loan too, and Mr C had only missed one payment in the first two years after the loan was made. Our investigator said that this suggested that the loan was affordable for a considerable amount of time after it was taken out.

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 he didn't believe that his expenditure was as low as BoS said in July 2014. Our service had sent him the income and expenditure details that have been shared with us, and he said that he didn't accept that this was right. He said that his July 2014 bank statement shows that his expenditure was much more than this.

Mr C 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.

Mr C told us that he had taken a number of loans out with BoS. Our service has explained to Mr C that we can't consider all of the loans that BoS has made to him, as part of this complaint. It's the loan made to Mr C in June 2014 that forms the basis 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.

BoS has shown us the calculations it did for lending to Mr C. That shows that it thought that the loan it made to Mr C in July 2014 was affordable. Mr C says it wasn't. He's listed a number of outgoings, which he says BoS didn't take account of when it worked out whether he could afford the loan.

The notes from the time say that this loan was intended to pay off Mr C's other borrowing with BoS and elsewhere. So it seems as if BoS thought that Mr C was going to use the money to clear his other debts. Because of that, when it checked if he could afford to pay this loan back, it assumed that he wouldn't be paying any of his other lending off at the same time. So it didn't allow for those payments when it worked out how much he could afford to pay towards the loan.

The way that BoS worked out if Mr C could afford this loan was to take some information on his monthly payments for things like his mortgage and of course this loan itself, and then to see how much was left after that. It then applies a threshold amount, which is what it thinks that Mr C will need to spend on regular monthly expenses. If Mr C has money left after that, then it thinks the loan is affordable for him. I think that is a reasonable way for BoS to assess affordability. And when BoS did that, it thought that Mr C's loan was affordable.

That means that BoS didn't consider the actual bills that Mr C was paying at the time. Instead of adding those all up separately, it used this threshold amount. That may be why Mr C thinks that there was regular spending on his account that BoS hadn't taken into account.

I've also looked at what Mr C was actually spending at the time, and it looks to me as if Mr C would've had some money left over after his regular bills were paid, if he had paid off the other lending with this loan. I know that Mr C says that this extra money went for housekeeping, and other expenses. But it does look like there would've been some money left for those expenses. I wouldn't substitute my decision for that of BoS. But, having looked at the figures myself, I don't think that I can say that this lending was clearly unaffordable, based on Mr C's actual expenditure at the time.

I've considered carefully what BoS did when it made a loan to Mr C in July 2014, and I don't think that BoS made a mistake when it lent Mr C this money.

I do think that BoS should've reduced or removed Mr C's overdraft at the time that this loan was made, and that it should also have either reduced his credit limit or closed his credit card account. But I think that BoS has already done enough to make up for what went wrong there. So I don't think that this complaint 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**