

## **complaint**

Mrs H complains on behalf of her son, Mr H. She says the Bank of Scotland plc, trading as Halifax, allowed his overdraft to increase to £11000.

## **background**

Mr H got into debt while he was a student. His overdraft increased to around £11000 despite his limited income. Mrs H asked Halifax how it'd allowed him to run up such a debt. The bank said he'd had an overdraft of £2900 which had increased because of failed chargeback claims he'd made about disputed payments.

A repayment plan was discussed but the bank now wants to close the account. And it's asked for the debt to be repaid in full. Mrs H wants the debt to be capped at the £2900 overdraft limit. She said Halifax shouldn't have allowed the debt to increase when it knew the money was being spent on gambling sites.

Halifax said during the previous six years its charges totalled £472. And in the past two years the charges had only been £42. A Supreme Court ruling in 2009 meant bank charges couldn't be challenged on the basis of unfairness as long as they were clearly set out. Halifax said the charges had been applied correctly. So it wouldn't refund them.

Mr H's overdraft had been set at £2900 since July 2015. And it hadn't provided any further lending to him. The current level of debt was due to Mr H's own spending. He'd disputed a number of transactions using the visa chargeback scheme. Where these had failed, the money had been taken back from his account. But he'd already spent it. So his debt increased.

Our investigator looked into the matter. He felt Halifax could've done more in dealing with the complaint fairly. He could see a lot of the overdraft had come from failed chargebacks. And he couldn't hold Halifax responsible for them. It was Mr H's responsibility to make sure the funds were still there if the chargeback failed. So he wouldn't ask Halifax to clear the outstanding debt. Mr H had enjoyed the benefit of the temporary credits.

But he felt Halifax should've been aware of the number of chargebacks that were being made. And the impact it was having on Mr H's account. So he said Halifax should repay half of the overdraft fees debited to the account after the chargebacks started to fail.

Mrs H didn't agree. Her son had a gambling habit and Halifax should've seen where the money was going. The majority of the chargebacks had been spent on gambling sites. Halifax should've acted sooner.

## **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 can understand Mrs H's frustration. Her son was trying to overcome a gambling habit. And he's run up a large overdraft on his Halifax account. Mrs H thinks Halifax should've seen the pattern of behaviour and stopped the overdraft increasing. So I've looked carefully at everything Mrs H and Halifax has said.

Looking at Mr H's statements I can see his agreed overdraft increased to £2900 in July 2015. Mr H would occasionally exceed his overdraft and charges were applied in line with the terms and conditions. At this time Mr H also informed Halifax about his financial situation. And I'd expect the bank to act positively and sympathetically towards him once it became aware of the circumstances. Halifax discussed a number of options with Mr H including a repayment plan. And it discussed the situation with Mr H the following year and offered further advice. But Halifax said it wasn't able to contact Mr H to discuss matters further.

The debt increased more recently because of failed chargeback requests. Mr H disputed payments he'd made on his visa card. The failed chargebacks resulted in a number of large payments being credited to Mr H's account – and then debited when the chargebacks failed. But Mr H spent the money each time so his overdraft kept increasing.

Customers are warned credits will be taken back if the chargeback fails. And there were a number of failed chargebacks when the money was debited from his account. So I can't say Mr H wasn't aware he couldn't spend the money if a request failed. I realise Mrs H says Halifax should've been aware her son was using chargebacks to obtain more funds for gambling. And I agree. But Halifax said it tried to contact her son on a number of occasions. And Mr H didn't respond.

It wouldn't be fair to hold Halifax responsible for the outstanding balance on the account. Although Mr H may have used the temporary credits to further his gambling, he did have the benefit of the money. So I won't ask Halifax to reduce his outstanding balance.

But I do think Halifax might've done more once the pattern began to emerge. Our investigator suggested it repay half of the fees applied after the chargebacks began to fail. And I think that's right. I can't hold Halifax responsible for the debt that's accrued. But it should repay some of the charges applied after Mr H's actions became apparent.

I can see Halifax has suggested Mr H contact its money management team to discuss an appropriate repayment plan. And I think that's a positive response. I hope Mr H is able to find a suitable solution.

### **my final decision**

My final decision is that Bank of Scotland plc (trading as Halifax) should repay half of the overdraft fees applied to Mr H's account from the date his chargeback requests began to fail.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 5 March 2018.

Andrew Mason  
**ombudsman**