

Complaint

Ms M has complained about her Bank of Scotland Plc (trading as “Halifax”) overdraft, Amongst other things, she’s said that Halifax unfairly applied charges to her overdraft when she was in financial difficulty.

Background

One of our adjudicators looked at this complaint and thought Halifax should have realised that Ms M’s overdraft had become unsustainable for her by May 2015 and so it needed to refund all the interest, fees and charges it added to the overdraft from this point.

Halifax didn’t respond to our adjudicator’s view. 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.

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 also think Halifax acted unfairly when it continued charging overdraft interest and associated fees after it renewed Ms M’s overdraft in May 2015.

A look at Ms M’s statements in the period leading up to the renewal shows that she never saw a credit balance on her account. It was clear that Ms M was using her overdraft for day to day expenditure, rather than short-term occasional use. And I can’t see that there were sufficient credits going into the account either.

In these circumstances, it ought to have been apparent that Ms M was struggling and she was unlikely to repay what she owed within a reasonable period of time with overdraft interest, fees and associated charges being added. So Halifax should have stopped providing the overdraft on the same terms and treated Ms M with forbearance rather than adding even more fees and charges on the overdraft.

All of this means that Halifax should have realised that Ms M was experiencing financial difficulty, wasn’t using her overdraft as intended and shouldn’t have continued offering it on the same terms. As Halifax didn’t react to Ms M’s overdraft usage and instead continued charging in the same way, I think it failed to act fairly and reasonably towards her.

Ms M ended up paying additional interest, fees and charges on her overdraft at a time when she was already experiencing difficulty. So I think that Ms M lost out because of what Halifax did wrong and that it should put things right.

Fair compensation - what Halifax needs to do to put things right for Ms M

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

- Reworking Ms M's overdraft balance so that all interest, fees and charges applied to it from May 2015 onwards are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made Halifax should contact Ms M to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Ms M's credit file, it should reflect what would have been recorded had it started the process of taking corrective action on the overdraft in May 2015.

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 Ms M 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 Ms M's credit file.

† HM Revenue & Customs requires Halifax to take off tax from this interest. Halifax must give Ms M a certificate showing how much tax it has taken off if she asks for one.

My final decision

For the reasons I've explained, I'm upholding Ms M's complaint. Bank of Scotland Plc should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 17 September 2021.

Jeshen Narayanan
Ombudsman