

The complaint

Miss W complains that the Bank of Scotland plc (trading as Halifax) was irresponsible to lend to her.

What happened

Miss W had two loans from Halifax in January 2019 and January 2020 as follows:

<u>Loan</u>	<u>Date</u>	<u>Amount</u>	<u>Term</u>	<u>Repayment</u>	<u>Due</u>	<u>Repaid</u>
1	15 Jan 2019	£9,500	27m	£379.98	1 April 2021	With loan 2
2	17 Jan 2020	£14,215.56	48m	£392.01	1 Jan 2024	3 Jan 2023

Miss W says that Halifax did not ask her about all her monthly expenditure when she applied for the loans. She says that even though she used the money to consolidate other credit, she couldn't afford her living expenses without going further into debt. Miss W adds that her rent increased during that time and that her second loan had a higher interest rate. She says Halifax did not ask for proof of her financial situation, and she found its customer service to be lacking. Miss W explains that she was able to repay her loan by transferring it to an interest free credit card.

Halifax says it asked Miss W about her income and housing costs and used information from credit reference agencies to estimate existing credit commitments. It says it used Office of National Statistics (ONS) data for her other living costs, and found the loans were affordable for Miss W.

Our investigator did not recommend the complaint should be upheld. Although he wasn't satisfied that Halifax had carried out proportionate checks, he considered that, had it done so, it's likely it would have found nothing to indicate the repayments were unsustainable.

Miss W responded to say, in summary, that making the loan repayments on the first loan left her short and she had to spend again on her cards which proved the loan was unaffordable. She added that Halifax agreed to lend to her even though it believed she'd only have £2 of disposable income each month. Miss W says Halifax also let her increase her overdraft during the lending and the total credit she had with them was more than her annual salary.

Provisional findings

I issued a provisional decision to Miss W and to Halifax on 9 October 2023. I've summarised my findings below:

- For loan 1 I wasn't satisfied that Halifax's affordability checks went far enough, but found that proportionate checks were likely to have found the repayments were sustainable for Miss W;
- Again, I wasn't satisfied that Halifax's affordability checks went far enough in the circumstances of loan 2 because:
 - The loan was for a term of 48 months and Halifax needed to be satisfied the repayments were sustainable for that period;
 - I couldn't see that Halifax verified Miss W's declared income and housing costs, even though it had access to her bank statements;
 - Halifax could see that she had built up a combined balance of around £4,000 on two of its own credit cards since the previous loan;
 - Miss W had taken repayment holidays for loan 1 payments that were scheduled in September 2019 and December 2019, and applied for a third one in January 2020 shortly before loan 2 was approved;
 - Halifax estimated her expenditure at £374 using ONS data;
 - Miss W would be committed to paying over a third of her declared income on credit;
 - Miss W was borrowing a relatively large amount within a year of loan 1 and the amount of debt that had built up again could have been an indication that she was struggling to afford the existing loan repayments;
- So I considered Halifax should have used Miss W's bank statements, to which it had access, in order to carry out proportionate checks. Had it done so, it would have seen that:
 - Miss W's income averaged about £1,400 per month in the lead up to the loan;
 - Miss W paid £100 for rent, about £200 for insurances, gym membership and her phone and around £200 on other expenditure each month including food and petrol;
 - Miss W was repaying two loans at a combined monthly repayment of £281;

In summary, I was satisfied that proportionate checks would have shown Miss W would have had little or no disposable income after the loan repayment and that it was irresponsible to have approved the loan, given what Halifax should have known about Miss W's financial circumstances.

Both Miss W and Halifax responded to accept the provisional decision.

What I've decided – and why

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

As both parties accepted my provisional decision, I see no reason to depart from it.

My final decision

My decision is that I uphold this complaint in part. Bank of Scotland plc (trading as Halifax) should:

- Add up the total amount of money Miss W received as a result of having been given loan 2. The repayments Miss W made should be deducted from this amount.
 - If this results in Miss W having paid more than she received, then any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement).*
- Remove any adverse information recorded on Miss W's credit file in relation to the loan.

*HM Revenue & Customs requires Halifax to deduct tax from this interest. Halifax should give Miss W a certificate showing how much tax it's deducted if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 13 November 2023.

Amanda Williams
Ombudsman