

Complaint

Miss O has complained about loans Bank of Scotland plc (trading as “Halifax”) provided to her. She says that Halifax provided her with unaffordable loans.

Background

One of our investigators reviewed what Miss O and Halifax had told us. And she thought that Halifax hadn't lent irresponsibly. So she didn't uphold Miss O's complaint. Miss O disagreed and asked for an ombudsman to look at her complaint.

My findings

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

We've explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Miss O's complaint.

Having carefully considered everything, I've not been persuaded to uphold Miss O's complaint. I'll explain why in a little more detail.

Halifax needed to make sure that it didn't lend irresponsibly. In practice, what this means is Halifax needed to carry out proportionate checks to be able to understand whether Miss O could afford to repay before providing these loans.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

Halifax provided Miss O with an initial loan for £6,000.00 in August 2018. It was due to be repaid in 24 instalments of around £265.24. This loan was settled in full with some of the proceeds from loan 2 in November 2019. Halifax then provided Miss O with a second loan for £7,321.99 in November 2019. £2,321.99 went towards settling the outstanding amount on loan 1 and the remaining £5,000.00 was advanced to Miss O in new funds. This loan was to be repaid in 28 instalments of around £350.

Halifax says it agreed to Miss O's applications after she provided details of her monthly income and expenditure. It says it cross-checked this against information on a credit search it carried out on Miss O.

In its view, the information Miss O provided about her income and expenditure showed she'd be able to comfortably make the repayments to both loans and Halifax says, in these circumstances it was reasonable to lend. On the other hand, Miss O has said the loans were unaffordable.

I've carefully thought about what Miss O and Halifax have said. The first thing for me to say is that these were Miss O's first loans with Halifax. The information provided does suggest Miss O was asked to provide details of her income and expenditure and Halifax didn't just rely on what it was told.

The credit searches carried out showed that Miss O had had little in the way of outstanding debt at the time of loan 1 and her active commitments were well relatively managed. Bearing in mind the amount of the repayments, what the credit searches showed and this was Miss O's first loan with Halifax, I don't think it was unreasonable for Halifax to rely on the payments for loan 1 being affordable. Indeed, on the face of things, the payments did appear to be affordable and there was nothing that called the information gathered into question.

So I'm satisfied that the checks Halifax carried out before providing loan 1 were reasonable and proportionate.

However, I am mindful that loan 2 was for a higher amount and Miss O owed more to existing creditors by the time of this application. In my view, bearing all of this in mind, Halifax needed to take further steps to verify Miss O's actual living costs, rather than rely on what she said, in order for its checks to have been proportionate. As Halifax didn't do this, I don't think that its checks for loan 2 went far enough.

As Halifax didn't carry out sufficient checks, I've gone on to decide what I think Halifax is more likely than not to have seen had it obtained further information from Miss O prior to providing loan 2. Given the circumstances here, I would have expected Halifax to have had a reasonable understanding about Miss O's regular living expenses as well as her income and existing credit commitments.

I've considered the information Miss O has provided us with – including her bank statements. And having done so, this information does appear to show that when Miss O's committed regular living expenses and existing credit commitments were deducted from her monthly income at the time, she did have the funds, at the time at least, to sustainably make the repayments due under loan 2.

I think it's important for me to point out that what I'm required to think about here in order to determine whether Halifax acted fairly and reasonably towards Miss O, is whether Miss O had sufficient disposable income to enable her to make the monthly payments to this agreement. And having considered everything, I'm satisfied that the available information indicates that Miss O did have sufficient funds left over to make the monthly payments towards loan 2 in a sustainable manner.

Furthermore, Halifax was also reasonably entitled to rely on the fact that Miss O had said that she would be using the funds from loan 2 to consolidate balances on her existing accounts. It won't have known that Miss O might not go on to do this or that she would go on to re-establish balances on these accounts – all it could do was take reasonable steps and rely on assurances from Miss O that she would consolidate debts these funds. So I'm satisfied that the proceeds of this loan could and should have been used to reduce Miss O's balances on her existing credit.

I accept that Miss O's actual circumstances may not be reflected in the information gathered for loan 1 or in the bank statements leading up to the application for loan 2. I've seen what

she's said about using her overdraft at the time. But even though this was the case, I'm simply not persuaded that Miss O was trapped in her overdraft or that her usage of the facility meant that these loans shouldn't have been provided to her.

I'd also add that it's only fair and reasonable for me to uphold a complaint in circumstances a lender did something wrong. And, in this case, I don't think that Halifax did anything wrong in deciding to lend to Miss O - it carried out proportionate checks for loan 1 even though it's being suggested that the information it was provided with may not have told the whole story and for loan 2 I don't think that Miss O providing further information on her living expenses would have shown the loan to be unaffordable.

Halifax reasonably relied on this information and given the amount of the repayments involved as well as it not being in a position to know that Miss O might have been, as she says, borrowing to make payments, I don't think it was unreasonable for Halifax to provide these loans in this instance.

As this is the case, I'm not upholding Miss O's complaint. I appreciate this will be very disappointing for Miss O. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

My final decision is that I'm not upholding Miss O's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 15 April 2024.

Jeshen Narayanan
Ombudsman