

## **The complaint**

Mrs H says Bank of Scotland plc, trading as Halifax, irresponsibly lent to her and its settlement offer does not recognise the distress she has suffered.

## **What happened**

On 15 September 2020 Halifax approved an overdraft facility of £100 for Mrs H. On 4 October 2020 it increased this to £500. After Mrs H complained to Halifax it accepted it was irresponsible to give the facility to Mrs H. It refunded all overdraft interest and fees applied to her account from the start of the overdraft to date.

Mrs H says Halifax, instead of holding the matter whilst investigating, continued to and harass her with demands for payment. She says she explained her situation multiple times but Halifax offered no support. Her mental health has been impacted by this.

Our investigator did not uphold Mrs H's complaint. She said Halifax's refund was in line with the approach this service takes for irresponsible lending complaints that are upheld. She explained Halifax was not obliged to pause collections activity during an investigation; there was no record Mrs H had previously given her authority for her husband to represent her on the account; nor is there any record that Mrs H told the bank she was struggling financially prior to her complaint in December 2023. She said it was reasonable Halifax tried to collect the money it was owed and it had explained different ways Mrs H could progress the issue if she was unable to discuss it herself by phone.

Mrs H disagreed with this assessment and asked for an ombudsman's review. She said she told Halifax before the complaint she was struggling, but can't remember who it was she spoke to. Whilst she appreciates the partial refund of fees and interest the way she has been treated has made the situation worse and caused her mental health to deteriorate. And she has provided authority previously for Halifax to speak with her husband so the bank is incorrect.

## **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.

Where the evidence is contradictory (as some of it is here) I have reached my decision based on the balance of probabilities. In other words, based on what I think is most likely given the available evidence and the wider circumstances.

Our approach to irresponsible lending complaints – including the relevant regulations, guidance and industry best practice – is set out on our website and I have taken it into account here.

It is no longer in dispute that Halifax ought not to have given Mrs H an overdraft facility. It refunded all interest and charges and this is what I would have instructed had it not already done so. I would remind it that once Mrs H has repaid the capital it must remove any

adverse information related to the overdraft facility from her credit file.

I understand Mrs H remains unhappy with the level of support offered and Halifax's continued contact with her about the remaining capital balance she owes. I have reviewed the bank's contact records and cannot see Mrs H had been in touch to ask for support prior to raising this complaint. I appreciate she recalls she did but with no evidence of the contact, and with scant detail of how/when she did this, I cannot fairly conclude that Halifax failed to respond.

Mrs H says she was harassed to repay the outstanding capital. But from what I can see she did not respond to Halifax's request for contact so I find it was reasonable to pursue the debt it was owed as it did. I have read the letters and texts and whilst I understand Mrs H felt harassed, there was nothing in their tone or content that I find inappropriate.

Mrs H says she has already given authority for her husband to speak on her account. But there is no record of this - Halifax has searched their records and it is unable to see anything noted to show that they have authority to speak to Mr H. Both the bank, in its final response letter, and our investigator have set out what Mrs H can do to resolve this. For completeness I will repeat that here: Mr H should call their Customer Financial Assistance (CFA) team on Mrs H's behalf on 0808 145 0439. And if Mr H states at the start of the call why he is ringing the CFA team will only briefly have to speak to Mrs H to obtain her authority. I don't doubt Mrs H has shared her honest recollections of the request she made but we are an evidence-based service and here the balance of evidence does not show Halifax received and ignored Mrs H's instructions.

In summary, I do not find Halifax needs to take any compensatory action.

I am sorry Mrs H has struggled financially and with her mental health. I hope she now has the support she needs. StepChange (tel: 0330 055 2198) and MIND (tel: 0300 123 3393) are organisations that can provide free assistance if not.

I would urge her either directly, by arranging authority for her husband, or through a third party like StepChange, to contact Halifax to arrange an affordable repayment plan. I would remind Halifax of its obligation to treat Mrs H fairly, and with forbearance as appropriate.

### **My final decision**

I am not upholding Mrs H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 20 May 2024.

Rebecca Connelley  
**Ombudsman**