

## **The complaint**

Mr E has complained, via complaints management company (CMC), that Bank of Scotland plc trading as Halifax acted irresponsibly when it approved him for a £8,200 finance agreement in September 2018.

## **Background**

Mr E applied for a motor finance agreement with Halifax in September 2018. The agreement was for £8,200 and needed to be repaid over 60 months. The monthly repayments were £204.59. At the time he applied for the finance Mr E was in full time employment, living at home with his parents, not paying rent or making any payments towards household bills. However, he had a number of open credit accounts elsewhere and has said he was heavily reliant on his overdraft facility and struggling to meet his monthly obligations. He feels that Halifax failed to properly consider his circumstances and should have done more thorough checks before approving the finance for him.

Halifax has said that at the time Mr E applied for the lending it did run sufficient checks. Having done so it was satisfied that he was managing all of his existing credit well and that the repayments would be affordable for him. So, it didn't think it was wrong to approve his application and didn't uphold his complaint.

Unhappy with Halifax's response Mr E's representative brought his complaint to our service. One of our investigator's looked into the complaint already. He agreed that at the time of application Mr E was showing signs of becoming over reliant on credit and that more thorough checks should have taken place. If this it had happened he believed Halifax would have seen that Mr E was regularly gambling amounts that far exceeded his monthly income and that this should have given Halifax cause for concern about the sustainability of the repayments Mr E was being asked to pay. Ultimately he didn't think Halifax should have approved the application and upheld the complaint.

However in calculating what fair redress on the complaint should be our investigator acknowledged that Mr E had had use of the vehicle for 43 months before the car was returned and the remaining debt written off. So he thought Mr E should pay £150 a month for fair usage of the car for each month he had it and any payment over this amount should be refunded. However as Mr E hadn't repaid the agreement in full, once the total fair usage amount was calculated our investigator found no refund was due, but he did ask that Halifax remove any adverse information linked to the agreement from Mr E's credit file.

Neither Mr E's CMC nor Halifax accepted the investigator's findings and both asked for the complaint to reviewed by an ombudsman and so it's been passed to me for consideration.

## **My findings**

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

Having done so I agree with the findings of our investigator and for much the same reasons.

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance and good industry practice – is set out on our website.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments, the total cost of the credit and what it knew about the consumer at the time of application.

At the time Mr E applied for the car finance he was living with his parents and had minimum living expenses as a result. Halifax has said it checked Mr E's credit file and was satisfied that all of his existing accounts were up to date and well maintained. So, it didn't think any additional checks were necessary or that there was anything in the information it had gathered that indicated Mr E wouldn't be able to afford the repayments for the full term of the agreement.

I've also reviewed Mr E's credit agreement and note that all of the existing credit obligations showing on his credit file in September 2018 had been opened over the course of that year. So, I think Halifax should have considered why Mr E had opened six credit card accounts and taken out a personal loan, in the eight months prior to applying for the car finance agreement and whether or not additional lending would likely be sustainable to him for the full term of the agreement.

In order to understand how Mr E was managing his finances Halifax should have done additional checks and one way of obtaining better insight into how someone is managing their finances is to review their bank statements. Having looked at Mr E's bank statements I can see that by the time he applied for the finance agreement with Halifax he was gambling on a very regular basis. Although Mr E's monthly income was less than £1,100 at the time of lending, in the three months prior to applying for the credit with Halifax he had gambled nearly £8,000. And in the month prior to lending Mr E had gambled over £7,000.

While Mr E did recoup some money from the gambling transactions he made his spend far outweighed his winnings. And I think if Halifax had seen this pattern of behaviour on Mr E's account at the time he applied for the car finance it would have given it cause to consider whether or not the lending was genuinely affordable or would be sustainable over the term of the agreement. So, I think Halifax was wrong to approve the agreement for Mr E and that the lending decision was irresponsible. So, I am upholding the complaint on that basis.

### **Putting things right**

Normally when trying to calculate redress in cases involving lending and supply of goods, such as car finance agreements, it's necessary to consider what fair usage the consumer had of the car when trying to establish what any refund might be.

Although Mr E's agreement was for 60 months he returned the car after 43 months having fallen into arrears in his repayments. Halifax subsequently closed the account writing off the outstanding amount owed (£2,518.36).

Our investigator suggested that Mr E should pay £150 for fair usage of the car for each month he had it which came to a total of £6,450. I think this is a reasonable amount.

However, at the point Mr E returned the car he had paid less than £6,450 meaning that no refund would be due following the investigator's calculations. I think this is fair, Halifax has already written off the remaining debt and Mr E did have use of the car for 43 months and is therefore liable for some repayment during that period.

That means the only thing left for Halifax to do is remove any adverse information linked to the agreement from Mr E's credit file as it shouldn't have approved the lending in the first place.

### **My final decision**

For the reasons set out above I uphold Mr E's complaint against Bank of Scotland plc trading as Halifax

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 19 December 2024.

Karen Hanlon  
**Ombudsman**