

## The complaint

Mr P complains that Bank of Scotland plc trading as Halifax (Halifax) lent to him irresponsibly.

## What happened

In November 2021, Mr P borrowed £23,500 from Halifax on a personal loan. It was said to be for home improvements and was payable over 48 months. Payments were £538.99 per month. The loan was drawn and four monthly payments were made. The loan then fell into arrears and after five missed payments, the loan was defaulted and passed to a debt collection agency in November 2022.

Mr P complained. He said Halifax didn't complete the necessary checks. He had a lot of other debts at the time which Halifax couldn't have taken into account. He said the default was unfair. He said a previous complaint about the fairness of the default had been investigated and it had been found that the loan wasn't affordable when the default took place. So – he said the original lending decision must also have been wrong.

Mr P said the loan should be written off and the default removed from his credit file.

Halifax said Mr P's application passed their credit checks. These included what they knew about Mr P, plus information from credit reference agencies. They'd used Mr P's monthly income and deducted from that his share of housing costs, and the contractual and minimum payments due on other debts. An amount for living costs was also deducted. Mr P's monthly income was stated by him to be £2,650 and his share of housing costs were £350. After calculating his other commitments, they'd agreed to lend the money. They declined to refund any interest or write off the loan.

Mr P brought his complaint to us. Our investigator said Halifax had carried out proportionate checks and had included an assessment of Mr P's other borrowing. But she thought that the payments to Mr P's debts were 56% of his income, and that was high. She said Halifax should refund the interest paid on the loan and remove the default from his credit file. Mr P agreed. But Halifax didn't and set out more information on the checks they'd completed. Because one party didn't agree, the complaint has come to me to look at.

### I reached a provisional decision which said:

All lenders have an obligation to lend money responsibly. We have to check whether Halifax acted in line within the Financial Conduct Authority (FCA) rules on creditworthiness assessment as set out in its handbook, (CONC) section 5.2. These say that a firm must undertake a reasonable assessment of creditworthiness, considering both the risk to it of the customer not making the repayments, as well as the risk to the customer of not being able to

make repayments. We look at:

- Whether the lender completed reasonable and proportionate checks to satisfy itself that the borrower would be able to repay any credit in a sustainable way?
- If reasonable and proportionate checks were completed, did the lender make a fair lending decision bearing in mind the information gathered and what the lender knew about the borrower's circumstances?
- And a reasonable and proportionate check would usually need to be more thorough:
  - o the lower a customer's income, and the higher amount to be repaid.
  - o the greater the number of loans and frequency of loans.
  - o the longer the term of the loans

It's important to note that the checks must be proportionate to the amount being lent – so the higher the amount, the greater the checks must be, and the lower the amount, then fewer checks can be made.

I've looked at Mr P's complaint and the checks completed by Halifax in the light of this guidance. And – I think Halifax did complete proportionate checks when Mr P applied for the loan. Halifax showed us they worked out Mr P's situation each month as:

<b>Income</b>	<b>Housing costs</b>	<b>Unsecured credit payments</b>	<b>Living costs</b>	<b>Monthly disposable income ('MDI')</b>
£2,650	£350	£879	£434	£987

Halifax said that they'd worked out Mr P could afford the new monthly payments of £538 – against the MDI of £987.

The crux of Mr P's complaint comes down to whether I consider what Halifax did to have been reasonable and proportionate. I looked at each of Halifax's calculations.

*Income:* Mr P told Halifax what his income was in his application – so that's not in dispute. *Housing costs (mortgage):* I can see that Mr P had a mortgage with payments of around £704 per month – so he said his share of that was 50% - £350 – so that looked reasonable.

*Living costs:* Halifax said they worked out Mr P's living costs from an internal model that includes amounts to be spent on essential spend including utilities, groceries, clothing and commuting and considers also age, income, and area of the country. So – this looks reasonable to me and is in line with the checks they're required to make.

*Unsecured credit payments:* This is the important aspect here – as Mr P has said he had other debts and significant commitments. If they were so – to the extent that the new loan payments weren't affordable - we would expect Halifax to have asked more questions. So – I looked these closely as it appears from his bank statements that he had several other loans and credit cards. We asked Mr P for his credit file to help us understand what was going on.

I can see that Mr P had three other loans (in addition to the mortgage) just prior to his application to Halifax. They had total monthly payments of around £830. That looked high. But – I can also see that he paid them off. One was repaid in May 2021, and the other two were repaid in November 2021. It appears the latter two were paid off with the new loan from Halifax. Because the loans were repaid – the payments of £830 stopped. So – I don't include those.

I can see Mr P had at least five credit cards. The combined limits (not balances) in 2023

were £31,400. That appears high, and I don't know exactly what the balances on the cards were at the time. But I can see that Halifax worked out that based on the balances (taken from Mr P's credit file at the time), minimum payments were around £879 each month – and based on the figures they worked out, that meant Mr P could afford the payments to the new loan. Having looked the figures again, I think that was a reasonable conclusion for Halifax to come to.

It's also fair to say that Halifax looked at how Mr P was managing his debts at the time. This showed all accounts were paid to date, and there weren't any arrears, defaults, or county court judgments. I could also see that from Mr P's credit file. Mr P was managing his debts satisfactorily at the time. So – I can see why Halifax considered Mr P should be lent the money.

Mr P has referred to a previous case which was brought to our service. He argues that because that said he couldn't afford the repayments later (in August 2022) - that means the original lending must have been wrong. I hear what he says, but I can only review and consider what information Halifax had to go on at the time of his application in November 2021. I did note that in his previous complaint, Mr P said his situation had worsened in 2022 due to the cost of living rises and some unexpected costs – so it does appear that his situation got worse later.

Therefore, having looked into what happened here, I'm persuaded that Halifax did carry out the necessary and proportionate credit checks when making the loan to Mr P. And this provisional decision doesn't uphold Mr P's complaint or ask Halifax to do anything here.

#### *Responses to the provisional decision:*

Halifax made no comments, but Mr P did. He said:

1. He repeated that the loan was later deemed unaffordable and so the original lending must also have been flawed.
2. He paid off the two loans in November 2021 after the Halifax loan was agreed – so the information Halifax had when he applied for the loan must have shown the two loans that were later repaid.
3. Halifax's use of a 'computer model' to work out his living costs was unrealistic. Halifax had his bank statements so they could've seen his outgoings.
4. Halifax asked for detailed outgoings when he later asked for help, so to do that later and not when he applied for the loan wasn't fair or consistent.

I now need to consider these points and reach a final 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.

On Mr P's points (in order):

1. I don't agree that the two events can be so linked. Mr P's later difficulties, and Halifax's assessment of his situation then were necessarily based on his circumstances at that time. And it may well have been that they had changed in the meantime.
2. I appreciate what Mr P has said in his second point and I've considered in detail the analysis Halifax did. Mr P had also sent to us his credit file – this shows two loans

were repaid just after the Halifax loan was drawn. Mr P's bank statements show the same. One loan was paid off (saving £171 per month) and another was paid off (saving £437 per month). Looking at Halifax's analysis, if the two monthly payments continued, these would've reduced Mr P's MDI (£987) by £608 – to £379. And therefore, the new Halifax loan payments of £538 per month wouldn't have been easily affordable. So – the point Mr P makes needs to be considered.

I've thought about what would've happened if Halifax asked him more questions about the two loans – and here, I'm persuaded that Mr P would've told Halifax that he intended to pay them off – and so Halifax would likely have agreed to the loan in any case. I say that as - the two loans were paid off within days of the new Halifax loan being drawn – so it's reasonable to assume that he always intended to do that and would've told Halifax so.

3. My role is to ensure Halifax made a reasonable judgment based on the information they had – and Halifax's processes were to use credit reference agency data to work out Mr P's living costs, which I can see they did. That would be normal banking practice. And - I can't challenge their processes in doing so. And – provided Mr P met Halifax's lending criteria (which he did), the lending guidance which they had to comply with doesn't require them to look at bank statements.
4. When Halifax looked at Mr P's situation later – Halifax were required to follow guidelines for helping customers in financial difficulty. These were different to the guidelines that they were required to follow when agreeing to the loan in the first place.

Therefore, having considered what Mr P has put back to us, my final decision is in line with the provisional decision.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 11 October 2023.

Martin Lord  
**Ombudsman**