

## **The complaint**

Mr and Mrs W complaint that Bank of Scotland plc trading a Halifax lent irresponsibly when it approved two loans they jointly applied for.

## **What happened**

Mr and Mrs W had an existing loan with Halifax and in June 2017 applied to refinance it. In the application, Mr and Mrs W said they were homeowners with a mortgage. Mr and Mrs W also said they were in receipt of employed and pension incomes.

Halifax says it carried out a credit search but didn't find any debts in Mr and Mrs W's name with other businesses. Halifax reviewed Mr and Mrs W's current account statements and overdraft use and calculated they had around £494 available once their essential living costs and existing commitments were paid. Halifax approved the refinance loan which repaid the existing balance of £3,939.53 and gave Mr and Mrs W £3,700.

In October 2019 Mr and Mrs W made another loan application to refinance the existing lending and take a further £2,000 in new borrowing. Halifax again says it looked at Mr and Mrs W's credit file and took their mortgage payment into account. Halifax says there was no evidence of other debts with different lenders at the time. Halifax says Mr and Mrs W provided further details about their income which was again made up of earned income and pension payments. Halifax says it reviewed the application and approved it in line with its lending criteria. The loan was £9,024.66 made up of £7,024.66 which was the existing loan balance and £2,000 that was released to Mr and Mrs W.

In October 2019 Mr and Mrs W settled the outstanding balance and closed the loan.

Last year, Mr and Mrs W complained that Halifax lent irresponsibly when it approved their loan applications. Mr and Mrs W have highlighted long term overdraft use and a pattern of refinancing loans over several years. Halifax issued responses to Mr and Mrs W's complaint but ultimately didn't agree it had lent irresponsibly when approving the loans in 2017 and 2018.

Mr and Mrs W's case was referred to this service and passed to an investigator. They explained we could only consider complaints made within certain time limits which meant we could only look at the loans approved in Halifax in 2017 and 2018. Mr and Mrs W's representative confirmed they were willing to proceed on that basis.

The investigator wasn't persuaded that Halifax had lent irresponsibly when approving the loans in 2017 and 2018 and didn't uphold Mr and Mrs W's complaint. Mr and Mrs W asked to appeal and said they thought Halifax had acted unfairly by continuing to refinance existing loans. They also said there were separate loans running in Mr and Mrs W's sole names during the period of borrowing and that Mrs W had retired due to ill health. As Mr and Mrs W asked to appeal, their complaint has been passed to me to make a 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.

Before agreeing to lend, the rules say Halifax had to complete reasonable and proportionate checks to ensure Mr and Mrs W could afford to repay the debt in a sustainable way. These affordability checks needed to be focused on the borrower's circumstances. The nature of what's considered reasonable and proportionate will vary depending on various factors like:

- The amount of credit;
- The total sum repayable and the size of regular repayments;
- The duration of the agreement;
- The costs of the credit; and
- The consumer's individual circumstances.

That means there's no set list of checks a lender must complete. But lenders are required to consider the above points when deciding what's reasonable and proportionate. Lenders may choose to verify a borrower's income or obtain a more detailed picture of their circumstances by reviewing bank statements for example. More information about how we consider irresponsible lending complaints can be found on our website.

I understand Mr and Mrs W had previous loans that were refinanced. But in this decision, as our investigator has explained, I'm only looking at the joint loans they took out in 2017 and 2018.

As noted above, before agreeing to lend, Halifax needed to complete reasonable and proportionate checks to ensure the repayments were sustainable. Here, Halifax's application asked Mr and Mrs W to confirm their residential status and housing costs as well as their income. I can see that on both applications, Mr and Mrs W confirmed they had a mortgage and the cost of making payments was noted. In addition, Mr and Mrs W confirmed their income was made up of employed and pension payments. Halifax has confirmed it verified the information provided by looking at Mr and Mrs W's bank accounts with it. Halifax also advises it carried out a credit search and didn't find evidence of debts in Mr and Mrs W's name with other lenders.

I've reviewed the bank statements for the period before both loans were applied for. They show Mr and Mrs W provided reasonably accurate information about their income levels. The statements also show that Mr and Mrs W had a mortgage, existing commitments with Halifax and were making payments towards utilities and other normal living costs.

Halifax has provided the figures it used when assessing Mr and Mrs W's loan applications. They show Halifax had an accurate picture of Mr and Mrs W's circumstances each time they applied for loans. And I'm satisfied the costs of maintaining their existing commitments and living expenses were reasonably reflected in the application data Halifax used. On both occasions, Halifax found Mr and Mrs W had sufficient income available to support further borrowing.

I appreciate Mr and Mrs W were refinancing existing loans but I'm satisfied that was taken into account by Halifax during the applications. And I'm satisfied the cost of servicing their overdrafts was also considered by Halifax when looking at their applications.

Ultimately, I'm satisfied that by carrying out credit searches, requesting information about their circumstances by way of applications and a review of their bank statements were all reasonable and proportionate checks to the loans Mr and Mrs W applied for. As the

applications were approved following reasonable checks by Halifax and the information it obtained showed they were affordable, I'm unable to agree it lent irresponsibly. I'm very sorry to disappoint Mr and Mrs W but as I haven't been persuaded that Halifax lent irresponsibly I'm unable to uphold their complaint.

### **My final decision**

My decision is that I don't uphold Mr and Mrs W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W to accept or reject my decision before 23 May 2024.

Marco Manente  
**Ombudsman**