

The complaint

Mr H complains that Shawbrook Bank Limited didn't carry out sufficient checks before giving him a substantial loan. He'd like the interest removed and the loan deleted from his credit file.

What happened

In January 2020 Mr H applied for a loan with Shawbrook. And on 24 January 2020 Shawbrook lent Mr H £9,000 repayable over 60 months, with an interest rate of 14.8% and monthly repayments of £208.86.

Mr H successfully made the first two payments, but he started missing payments from March 2020 and by May 2020 he couldn't afford repayments and entered into a debt management plan.

In December 2020 Mr H complained to Shawbrook that they'd lent to him irresponsibly.

Shawbrook looked into Mr H's complaint but didn't uphold it – they explained that on Mr H's application he said he had an income of £56,250 and this was verified by the bank when they offered him the loan.

One of our investigator's looked into Mr H's complaint and asked Shawbrook some further questions about the affordability checks the bank completed before offering Mr H the loan.

Shawbrook provided details of Mr H's credit file and an affordability report from a third party I'll call C – including loans and credit card debts. This information showed that Mr H had:

- A significant increase in his debts to income ratio over the previous 12 months. With total debts of over £29,000.
- In the three months prior to the loan Mr H made the minimum payments towards his credit cards 75% of the time. And had three balance increases on his credit cards and one new loan.

The bank confirmed they didn't ask Mr H for any additional evidence to support his application.

Shawbrook also explained they phoned Mr H to confirm he could afford the repayments and the purpose of the loan – for home improvements.

After looking at the evidence Shawbrook provided, our investigator thought that the bank should have carried out additional checks considering the size of the loan, level of borrowing Mr H already had and the number of loans recently taken out. They recommended that the interest was removed from the outstanding balance and any negative information was deleted from Mr H's credit file.

Mr H accepted our investigator's opinion but Shawbrook didn't. In summary they said:

- The decision to accept was based on the bank's lending criteria and on information

Mr H provided.

- Mr H's income was verified
- They phoned Mr H and confirmed he could afford the repayments, and they were for home improvements.
- His inability to pay the debt coincided with the first Coronavirus lockdown, and this might be why he couldn't afford the repayments.
- The bank isn't sure what additional checks they should have completed.

As Shawbrook didn't accept our investigator's opinion it's been referred for me to decide.

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.

Lenders have a responsibility to carry out reasonable and proportionate checks to determine if a customer can afford a loan. The relevant regulations outline the sorts of factors which need to be considered when looking at what checks are *proportionate*. These include:

- the type of credit
- the amount of the credit
- the duration of the credit

Shawbrook lent Mr H a large loan of £9,000 over a long repayment period – 60 months.

I've considered what checks Shawbrook completed on the loan application. The bank has explained that Mr H's income was verified and the lender contacted Mr H who confirmed the purpose of the loan – home improvements – and that he could afford the repayments.

I've looked at the evidence available to Shawbrook at the time of the application. The affordability report Shawbrook were provided by C, highlights that Mr H's income had increased by 212% over the past 12 months. And over a three month period he'd had three balance increases, one loan taken out and 75% of the time he made the minimum payment on his credit cards.

Shawbrook also had access to Mr H's credit file which showed at the time of the application he was over £29,000 in debt.

I've thought about whether based on the above Shawbrook carried out reasonable and proportionate checks. And I don't think they did. I'd expect additional checks to have been completed once the bank identified the number and frequency of Mr H's recent loans and the total amount of debt he was already repaying.

Shawbrook explained that prior to approving the loan they contacted Mr H to discuss if the repayments were affordable and the purpose of the loan. I've listened to this call – and I agree Mr H did indicate the loan was affordable for him. However, Shawbrook didn't ask Mr H any further questions about the level of debt he was currently in, the loans he'd recently taken out or his increase in income.

I've moved on to consider what would have happened if Shawbrook had carried out reasonable and proportionate checks.

I've thought about what sort of additional checks I'd have expected Shawbrook to carry out – and what these checks would have revealed. The relevant regulations aren't specific on exactly what checks need to be completed, but I've considered what I think would have been most appropriate in the circumstances.

I've thought about the phone call Shawbrook had with Mr H, and I think the lender should have questioned Mr H *much* more thoroughly about his level of debt and the affordability of the current loan. And asked for evidence to support Mr H's responses. I think it would have been reasonable for Shawbrook to ask for a copy of Mr H's bank statements going back at least three months prior to the loan application.

I need to then consider whether, based on the extra checks Shawbrook should have completed, they'd have shown Mr H wasn't on balance able to sustainably repay the loan. Looking at the most recent bank statement, prior to Mr H's application, dated 21 December 2019 to 20 January 2020 I can see almost 40 separate deposits to various gambling websites totalling over £2,700. Mr H's bank statements would have also shown his monthly income was significantly less than the amount Shawbrook had 'verified'.

I'm satisfied if Shawbrook had reviewed a copy of Mr H's bank statements, they'd have shown that Mr H wasn't on balance able to sustainably repay the loan. And for this reason I don't think Shawbrook should have approved Mr H's loan application.

In response to our investigator's opinion, Shawbrook said:

Mr H's inability to pay the debt coincided with the first Coronavirus lockdown, and this might be why he couldn't afford the repayments.

I've not seen any evidence that Mr H's inability to pay for the loan was the result of the Coronavirus lockdown – considering the amount of debt Mr H already had, over £29,000 – it's clear he was already experiencing financial difficulties prior to the loan being approved. Shawbrook also argued that the decision to lend was based on the bank's lending criteria, information Mr H provided and that his income was verified. However, for the reasons I've already explained it's Shawbrook's responsibility to carry out reasonable and proportionate checks – and due to the size of the loan, the number of loans Mr H already had and when he'd taken them out I think Shawbrook should have carried out more checks. If the bank had done so I'm satisfied that the additional checks would have shown on balance Mr H wouldn't have been able to sustainably repay the loan.

Putting things right

For the reasons I've outlined above, I think Shawbrook lent irresponsibly to Mr H and should rework his account as I've directed below.

My final decision

My final decision is I direct Shawbrook Bank Limited to:

- Remove all interest, fees and charges on the loan and treat all the payments Mr H has made as payments towards the capital.
- If reworking Mr H's loan account results in him having effectively made payments above the original capital borrowed, then Shawbrook should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement*.
- Remove any information recorded on Mr H's credit file in relation to the loan.

*HM Revenue & Customs requires Shawbrook to deduct tax from this interest. Shawbrook should give Mr H a certificate showing how much tax it's deducted, if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 25 April 2022.

Jeff Burch
Ombudsman