DRN-3126749

The complaint

Mr O complains that National Westminster Bank Plc ('NatWest') irresponsibly gave him four loans that he couldn't afford.

What happened

On 8 January 2018 Mr O applied for and was given a personal loan for £1,000. Each subsequent loan repaid the former loan. On 23 April Mr O was given a loan of £1,800. On 7 June 2018 he was given a loan for £1,700. And on 2 August 2019 Mr O took a loan for £2,500.

On 2 December 2020, Mr O complained to NatWest to say that he was in financial difficulty before the account was opened and that adequate affordability checks weren't carried out when the loans were provided. Mr O thought NatWest ought to have understood he had a gambling habit and not provided him with increased credit.

Our adjudicator recommended the complaint be upheld. NatWest didn't agree. So, the complaint has been passed to me for 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.

I've read and considered the whole file, but I'll confine my comments to what I think is relevant. If I don't comment on any specific point it's not because I've failed to consider it but because I don't think I need to comment on it in order to reach what I think is the right outcome in the wider context. My remit is to take an overview and decide what's fair "in the round".

NatWest will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don't consider it necessary to set all of this out in this decision. Information about our approach to these complaints is set out on our website.

NatWest needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr O could afford to repay what he was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that NatWest should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);

- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);

- the *greater* the frequency of borrowing, and the longer the period of time during which a customer has been indebted (reflecting the risk that prolonged indebtedness may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

Our adjudicator set out in some detail why she thought NatWest shouldn't have provided Mr O with any of the loans. NatWest didn't agree with what our adjudicator said. It reminded us that the loans were afforded and disagreed that they were unaffordable.

I understand that Mr O's credit file was free of adverse information at the time of the first loan. And I can see that Mr O's gambling habit doesn't show as an issue from the bank statements we've seen from the time. I'd only expect NatWest to act on information available to them and I don't believe NatWest ought to have known about Mr O's habit. Mr O told us he hadn't made NatWest aware of this at the time. And it wouldn't have been easy to identify as there are hardly any items relating to gambling on Mr O's bank statements. So, I don't think it was unreasonable for them to lend on this basis.

But I do think it was unreasonable of them to lend for other reasons. I'll explain why I say that.

NatWest had access to information about Mr O from his current account. And I think that a proportionate check would have seen NatWest use the information about Mr O that they had at their disposal when making a lending decision. On 29 December 2017 Mr O's NatWest current account balance was already at £3,498.82 in debit. So, NatWest had already allowed Mr O to build up debt with them.

NatWest needed to take into account everything it knew about its customer when deciding to lend. In this case NatWest had an existing customer relationship with Mr O, as he held a current account with them. And the information on that account readily showed, or ought easily to have shown, that Mr O was borrowing heavily from payday loans. Indeed, the level of activity was such that in the month before the first loan, Mr O was committed to spending almost his entire net income on payday lending. That rose to a sum of more than twice his net monthly income committed to payday ending by the time of the second and third loans.
And NatWest ought to have been able to see that through any basic enquiry about their customer.

Proportionate checks would have shown NatWest that, despite its own process for calculating affordability, Mr O was having difficulty managing his money. And I think that proportionate checks will have shown NatWest that Mr O was already struggling to manage the credit he already had and that there was a significant risk increasing his indebtedness with a series of loans in these circumstances would lead to his indebtedness increasing unsustainably.

Thinking of that I have noted that in the time before his first loan to the point of his fourth loan, Mr O's balance in his current account had moved from £3,498.82 on December 29th

2017 to £5,494.26 on 31st July 2019. His indebtedness had increased on the current account alone with NatWest by almost £2,000, whilst the initial loan of £1,000 had risen to £2,500.

So, I think that proportionate checks would likely have shown NatWest that Mr O was in difficulty with managing his account alongside his other debts and day-to-day living expenses. I also think there was a significant risk that further increases to his credit could have led to his indebtedness increasing unsustainably, such that he had no funds available to meet his debts and regular outgoings. Or in this case that in increasing his debt, Mr O might take the risk of making more and more use of expensive short term lending.

I think that Mr O lost out because NatWest provided him with a series of loans for further credit from January 2018 onwards. In my view, NatWest's actions unfairly prolonged Mr O's indebtedness by allowing him to use credit he couldn't afford over an extended period of time and the interest being added got him into further debt.

In saying this I've noted that NatWest has argued that the loans could have been used to pay off some of the payday lenders. There is, however, no evidence of that being discussed with Mr O at the time NatWest was making any of its lending decisions. I note that the second, third and fourth loans are classed as refinance loans. But I think that is because those loans included an amount to repay each previous loan, i.e. to refinance the existing loan. I think that is different to a consolidation loan to repay more expensive borrowing; in this case short term lending. And the first loan has a different code attached to it as the purpose of the loan; home improvements. So, it is not clear that the first loan in particular was provided to repay existing debt.

I've noted NatWest's argument that Mr O afforded the loans, by which they mean he paid them back on time, and so they think the loans can't have been unaffordable. But that argument does not fully answer NatWest's responsibilities to lend responsibly in the particular circumstances of this case. In any event, just because Mr O chose to pay back NatWest, doesn't mean the lending was affordable and sustainable to him. It's clear he only managed to pay NatWest back by borrowing heavily from other sources and getting himself further into debt.

So, for the above reasons I uphold Mr O's complaint about NatWest. And so, NatWest should put things right.

Putting things right

As I don't think NatWest ought to have lent Mr O any of the loans in this complaint, I don't think it's fair for it to be able to charge any interest or charges under the credit agreement. But I think Mr O should pay back the amounts he has borrowed. Therefore, NatWest should:

- Rework the loans removing all interest and charges that have been applied, so that Mr O only needs to pay back the capital he borrowed.
- If Mr O has paid back more than the capital he borrowed, any overpayments should be refunded to him along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. NatWest should also remove all adverse information regarding these loans from Mr O's credit file.
- Or, if after the rework there is still an outstanding balance, NatWest should arrange an affordable repayment plan with Mr O for the remaining amount. Once Mr O has cleared the balance, any adverse information in relation to the loans should be removed from his credit file.

*HM Revenue & Customs requires NatWest to deduct tax from any award of interest. It must give Mr O a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

Our investigator felt NatWest should also pay Mr O £150 for the inconvenience of what's happened. But the redress above is designed to put Mr O in the situation as if it hadn't happened. And I've seen no evidence that Mr O has suffered any more delay, frustration or effort in bringing his complaint to us than is usual in those circumstances. So, I make no award for inconvenience.

My final decision

For the reasons set out, I'm fully upholding Mr O's complaint. National Westminster Bank Plc should put things right in the way set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 7 October 2022.

Douglas Sayers
Ombudsman