

## **Complaint**

Mrs W has complained that Bank of Ireland (UK) Plc ("Bank of Ireland") irresponsibly provided her with an unaffordable loan.

## **Background**

Bank of Ireland provided Mrs W with a Post Office Money branded personal loan for £20,000.00 in October 2019. The loan had an APR of 11.9% and the total amount of £27,627.84, which included interest of £7,627.84, was due to be repaid in 72 monthly payments of just over £380.

One of our investigators looked into Mrs W's complaint. She thought that reasonable and proportionate checks would have shown the loan to be unaffordable and so Bank of Ireland shouldn't have provided Mrs W with this loan.

Bank of Ireland disagreed with our investigator's assessment and so the case was passed to an ombudsman.

## **My findings**

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

We've set out our approach to unaffordable/irresponsible lending complaints on our website and I've considered this while deciding Mrs W's complaint.

Having carefully considered everything provided, I think that there are two overarching questions that I need to consider in order to decide what's fair and reasonable in all the circumstances of Mrs W's complaint. These questions are:

- Did Bank of Ireland carry out reasonable and proportionate checks to satisfy itself that Mrs W would be able to repay her loan in a sustainable way?
  - If so, did it make a fair lending decision?
  - If not, would such checks have shown that Mrs W would have been able to do so?
- Did Bank of Ireland act unfairly or unreasonably towards Mrs W in some other way?

I'll consider each of these questions in turn.

Did Bank of Ireland carry out reasonable and proportionate checks to satisfy itself that Mrs W would be able to repay her loan in a sustainable way?

The rules and regulations in place when Bank of Ireland lent to Mrs W required it to carry out a reasonable and proportionate assessment of whether she could afford to repay what she

would owe in a sustainable manner. This assessment is sometimes referred to as an “affordability assessment” or “affordability check”.

The checks had to be “borrower” focused – so Bank of Ireland had to think about whether sustainably repaying any amounts lent would cause difficulties or adverse consequences *for Mrs W*. In practice this meant that Bank of Ireland had to ensure that making the repayments wouldn’t cause Mrs W undue difficulty or adverse consequences. In other words, it wasn’t enough for Bank of Ireland to simply think about the likelihood of it getting its money back, it had to consider the impact of any repayments on Mrs W.

Checks also had to be “proportionate” to the specific circumstances of the loan application. In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount / type / cost of credit they are seeking.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer’s income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income);
- the *longer* the period of time a borrower will be indebted for (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

There may also be other factors which could influence how detailed a proportionate check should’ve been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I’ve kept all of this in mind when thinking about whether Bank of Ireland did what it needed to before providing Mrs W with her loan.

#### *Were Bank of Ireland’s checks reasonable and proportionate*

Bank of Ireland says that Mrs W’s loan was considered affordable, in line with its policy, based on what it was told during the application. The information Bank of Ireland gathered at the time suggested it concluded Mrs W received £2,400.00 a month. It also looks as though she declared outgoings of £950 a month. Bank of Ireland has also said that it carried out credit checks but while it has referred to some of the information on the searches it hasn’t provided the output of them.

I’ve carefully thought about what Bank of Ireland has said.

While Bank of Ireland has provided the details of the internal score Mrs W achieved it hasn’t provided any of the data which it says it obtained from the credit reference agency and which underpinned its decision to lend. It appears as though it simply expects me to accept that the loan was affordable simply because its systems approved it. And I think that it’s important for me to point that it doesn’t automatically follow that a lender will have acted fairly and reasonably when providing a loan simply because it acted in line with its policy or an application met its minimum score.

Considering Bank of Ireland says it gathered sufficient information to inform its lending decision, it's extremely disappointing that Bank of Ireland hasn't provided it to me. This service cannot and will not look for evidence and construct an argument to support Bank of Ireland's defence of Mrs W's complaint. If Bank of Ireland can't provide the information it relied on and describe why this information showed it was fair and reasonable to lend to Mrs W, then I can't and won't reach the conclusion that its checks before providing this loan were proportionate. Without any evidence from Bank of Ireland to support its conclusions on this matter, I cannot and will not take it as read that its lending decision was fair.

I'm concerned at the reliance that Bank of Ireland has placed on the income check it says it carried out. It's fair to say that Bank of Ireland was advancing a significant sum of money here. And even on Mrs W's declaration of her income, the payments were going to take up a significant proportion of her monthly income. Given the relatively significant proportion of Mrs W's income being taken up by the payments, even on Bank of Ireland's figures, I would have expected Bank of Ireland to have taken care to ensure Mrs W's declaration of income was accurate before proceeding to lend.

Bank of Ireland has suggested it used a credit reference agency to validate Mrs W's income and it hasn't been entirely clear or forthcoming on what this entailed. I am assuming that the data it used either compared the income Mrs W declared on this application to what she'd declared on others made to her bank and other lenders, or it compared Mrs W's declaration of her income to the amount going into her bank account each month. Either way, as far as I can see, at best, Bank of Ireland merely cross-referenced what Mrs W declared and I don't consider that this is the same as verifying her income.

The amount being advanced and the proportion of Mrs W's declared income being taken up by the monthly repayments leave me satisfied that it is reasonable and proportionate to have expected Bank of Ireland to have obtained further information before determining that this loan was affordable for Mrs W. As there's no evidence that Bank of Ireland asked for, or considered, further information to properly scrutinise and the matters I've highlighted, I find that it didn't complete fair, reasonable and proportionate affordability checks before providing Mrs W with her loan.

*Would reasonable and proportionate checks have indicated to Bank of Ireland that Mrs W would have been unable to repay this loan?*

As reasonable and proportionate checks weren't carried out before this loan was provided, I can't say for sure what they would've shown. So I need to decide whether it is more likely than not that a proportionate check would have told Bank of Ireland that Mrs W would've been unable to sustainably repay this loan.

As I've explained, Mrs W has provided us with evidence of her financial circumstances at the time she applied for this loan. Of course, I accept different checks might show different things. And just because something shows up in the information Mrs W has provided, it doesn't mean it would've shown up in any checks Bank of Ireland might've carried out. But in the absence of anything else from Bank of Ireland showing what this information would have shown, I think it's perfectly fair, reasonable and proportionate to place considerable weight on it as an indication of what Mrs W's financial circumstances were more likely than not to have been at the time.

I've carefully considered the information provided. Having done so, it's clear that Mrs W's income was pretty much being used to meet her existing credit commitments and living costs. Furthermore, Mrs W's bank statements also show that she was significantly overdrawn too. I've seen what Bank of Ireland has said about what the purpose of the loan was recorded as at the time of the application. But even if I accept that the true purpose of

the loan was home improvements, I don't see how this means Mrs W was going to meet her commitments to her existing creditors as well as this loan.

Bearing all of this in mind, I'm satisfied that reasonable and proportionate checks would more likely than not have demonstrated that Mrs W was already in a difficult financial position. Having looked at Mrs W's bank statements, I have my suspicions as to why. But nonetheless, I'm satisfied that Mrs W was unlikely to have been able to make the repayments to this loan without borrowing further and/or suffering undue difficulty. And, in these circumstances, I find that reasonable and proportionate checks would more likely than not have alerted Bank of Ireland to the fact that Mrs W would not be able to sustainably make the repayments to this loan.

*Did Bank of Ireland act unfairly or unreasonably towards Mrs W in some other way?*

I've carefully thought about everything provided. Having done so, I've not seen anything to suggest that Bank of Ireland acted unfairly or unreasonably towards Mrs W in some other way.

*Did Mrs W lose out as a result of Bank of Ireland's shortcomings?*

Mrs W has paid and is being expected to pay additional interest and charges as a result of being unfairly provided with this loan. Mrs W had to pay this additional interest at a time when she was already finding it difficult to repay what she owed. So I'm satisfied that Mrs W has lost out because of what Bank of Ireland did wrong and Bank of Ireland needs to put things right.

**Fair compensation – what Bank of Ireland needs to do to put things right for Mrs W**

I've given a lot of careful thought to what fair compensation should look like in this case. And I think that Bank of Ireland needs to do the following to put things right for Mrs W.

- Removing all interest, fees and charges applied to Mrs W's loan from the outset. The payments Mrs W made should be deducted from the new starting balance – the £20,000.00 originally lent. Bank of Ireland should treat any payments made should the new starting balance be cleared as overpayments. And any overpayments, if there are any, should be refunded to Mrs W;
- Adding interest at 8% per year simple on any overpayments, if any, from the date they were made by Mrs W to the date of settlement†;
- If an outstanding balance remains on Mrs W's loan once these adjustments have been made, Bank of Ireland should contact Mrs W to arrange a suitable repayment plan for this.
- If, after all adjustments have been made, no outstanding balance remains, Bank of Ireland should remove any and all adverse information it may have recorded about this loan from Mrs W's credit file.

†HM Revenue & Customs requires Bank of Ireland to take off tax from this interest. Bank of Ireland must give Mrs W a certificate showing how much tax it's taken off if she asks for one.

**My final decision**

For the reasons explained, I'm upholding Mrs W's complaint. Bank of Ireland (UK) Plc should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 26 July 2022.

Jeshen Narayanan  
**Ombudsman**