

The complaint

Mr T complains that Bank of Ireland (UK) Plc (“Bank of Ireland”), trading as Post Office Money, shouldn’t have lent to him because it ought reasonably to have realised that he would struggle to make his repayments.

What happened

Bank of Ireland approved a couple of loans for Mr T as follows:

Loan	Amount	Total to Pay	Term	Repayments
1	6,000	7,235.40	60	120.59
2	7,500	9,850.20	60	164.17

Mr T said that Bank of Ireland were wrong to provide credit as it wasn’t affordable for him.

Bank of Ireland disagreed. They said that when they approved the loan they used a combination of credit reference agency, statistical modelling, and self-reported information to assess the application. They said that for the first loan their assessment suggested Mr T would have a disposable income of £238 after the new loan payment was taken into account and for the second loan his disposable income would be about £72 per month. They therefore thought there was sufficient disposable income for Mr T to sustainably afford the repayments.

Our investigator disagreed with Bank of Ireland. They said that the business should have completed additional checks and if they had they would have discovered Mr T was experiencing financial difficulties and that it would have been irresponsible to increase his indebtedness further. The investigator therefore suggested Bank of Ireland take some action to put things right for Mr T.

Bank of Ireland didn’t agree with the investigator. They thought there was no need for additional checks as the ones they had completed were reasonable and proportionate and demonstrated that the agreements were affordable for the consumer. They therefore asked for a final decision by an ombudsman.

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.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website. I’ve had this approach in mind when considering what’s fair and reasonable here.

I don't think Bank of Ireland completed reasonable and proportionate checks before approving the loans.

Bank of Ireland hasn't provided a copy of the credit check it completed. I've therefore relied on a copy of the credit file supplied by Mr T. I think this gives a good indication of what Bank of Ireland would likely have seen. It supports the information Bank of Ireland have sent me that Mr T had nearly £18,000 of unsecured debt and that he was paying over £500 per month towards those unsecured credit commitments. Mr T had taken out a loan for £13,500 only seven months before his application to Bank of Ireland. He'd also taken out another significant loan the month before he'd made his application, but I think that loan would not have been likely to be visible to Bank of Ireland at the time of Mr T's first application. The disposable income calculation Bank of Ireland completed assumed Mr T was paying £425 towards his mortgage each month but Mr T had told them his portion of the payment was £570 and I think it was fair, and safer, to therefore use the higher figure. That left a disposable income of only £92 and I think given the level of unsecured debt, the recent loan taken out in September 2017 for £13,500, and the low disposable income, it would have been reasonable for the business to have asked for more information before approving the loan.

I can't be sure what Bank of Ireland would have been told if they'd asked for more information about Mr T's expenditure. They didn't have to ask for bank statements but in the absence of other information I think reviewing bank statements from around the time of the lending decision is the best way to gauge what that information would have been.

Mr T's bank statements show that he was in persistent overdraft and that the overdraft was growing month on month. He was also paying a substantial amount towards gambling transactions each month. I think that, in tandem with the relatively low level of calculated disposable income, would suggest the first loan wasn't affordable and Bank of Ireland were irresponsible to provide that credit and increase Mr T's indebtedness.

I don't think Mr T's financial position had improved by the time of the second loan application. Payments towards his unsecured debt had increased and he remained in persistent overdraft. I don't therefore think the decision to approve the second loan was responsible either as I think the evidence suggested Mr T was unlikely to be able to sustainably afford repayments.

Putting things right

As I don't think Bank of Ireland should have approved the loans I don't think it's fair for it to charge any interest or charges. However, Mr T has had the benefit of the capital he lent so I think he should pay that back. Therefore, Bank of Ireland (UK) Plc should:

1. Refund all the interest and charges Mr T has paid to date.
2. If the borrowing is still in place, reduce the outstanding capital balances by the amounts calculated at Step 1.
3. If, after Step 2, there remain outstanding capital balances on either account, try to agree an affordable repayment plan with Mr T. But if Step 2 leads to a positive balance, the amount in question should be given back to Mr T and 8% simple interest* should be added to the surplus.
4. Once the capital has been repaid on either loan, remove any adverse information recorded on Mr T's credit file about that loan.

If Bank of Ireland have sold the outstanding debts they should buy them back if they are able to do so and then take the steps highlighted above. If they are not able to buy the debts back then they should liaise with the new debt owner to achieve the results outlined above.

*HM Revenue & Customs may require the business to take off tax from this interest. If it does, the business must give the consumer a certificate showing how much tax it's taken off if they ask for one.

My final decision

I uphold this complaint and direct Bank of Ireland (UK) Plc to put things right in the manner I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 23 December 2022.

Phillip McMahon
Ombudsman