DRN-3667846

The complaint

Mr M complains that Bank of Ireland (UK) Plc did not make proper affordability checks when it agreed to two loans in August 2019 and February 2020.

What happened

In August 2019 Mr M applied for a loan of £7,500, which he said was to pay for a holiday. Bank of Ireland agreed to the loan, which was payable over five years at just over £157 a month.

In February 2020 Mr M applied for a second loan, this time of £4,500. He said the loan was needed to consolidate other debt. Again, the bank agreed to the loan, which was payable over five years at just under £111 a month.

In or about September 2021 Mr M contacted Bank of Ireland to say that he did not believe appropriate checks had been carried out when he applied for the loans to ensure that he could afford to repay them.

Bank of Ireland responded to say that it believed it had carried out appropriate checks before agreeing to the loans. Those checks were, it said, automated (meaning there was no manual intervention) and had been largely based on information which Mr M had provided and on credit checks. That information and those checks had not suggested that either loan would be unaffordable or that further enquiries were needed at the time. The bank noted that, at the time Mr M raised his complaint, payments on both loans were up to date and that there were no arrears.

Mr M referred the matter to this service, where one of our investigators considered what had happened. He took the view that Bank of Ireland should have investigated Mr M's overall finances in more detail than it had and that, had it done so, it would have concluded that neither loan was affordable. He recommended that Bank of Ireland refund all interest and charges on the loans and remove any negative credit information recorded against Mr M's name in relation to them.

Bank of Ireland did not accept the investigator's recommendations and asked that an ombudsman review the case. It thought that it had made reasonable and proportionate checks before agreeing to the loans. It said too that removing credit information would enable Mr M to continue borrowing.

I reviewed the case and, because I thought it likely that I would reach a different conclusion from that reached by the investigator, issued a provisional decision. In my provisional decision I said:

Banks and other lenders are required to assess the affordability of a loan before agreeing to it. In doing so, they must carry out proportionate checks in order to assess not only whether they are likely to be repaid, but also whether the loan is affordable for the customer. That means that the customer should be able to repay the loan without undue difficulty over its full *term. What is reasonable and proportionate will not be the same in every case but will depend on the individual circumstances.*

In the case of both these loans, Bank of Ireland sought information from Mr M about his income, outgoings, and other commitments. Its lending decisions were largely based on the information he had provided and information it had obtained from credit reference agencies. In respect of the first loan, the investigator noted that the consequences for Mr M of not being able to repay the loan were significant. He thought that this meant that the bank ought to have sought to obtain a greater level of understanding of his finances. It should have carried out more detailed checks.

The investigator also noted that, had more detailed checks been carried out, Bank of Ireland would have identified that Mr M had recently taken out a £5,000 guarantor loan and opened two credit card accounts with a total credit limit of over £7,000. Mr M also had an overdraft of around £3,000.

In addition, Mr M was not living with his partner at the time, but was contributing to their housing costs, as well as paying his own. His bank statements indicated too that he was spending significant sums on gambling.

Mr M's income and expenditure when he applied for the second loan were not significantly different from what they had been when he took out the first loan. His debt profile had changed, however. He had used the first loan to repay a loan (not for a holiday, as the application had said), but his credit card debt had increased. He was still using an overdraft. I cannot say whether Bank of Ireland's lending decisions would have been different if it had identified all or any of these matters before agreeing the loans. I think it quite likely that they would have been. It might have agreed to lend less, or to decline one or both applications.

The issue I have to consider, however, is not whether – with more information – the bank would have made a different decision. I need to consider whether it should have undertaken more detailed affordability checks than it did.

As I have indicated, the affordability checks that a prospective lender must take depend on the circumstances. But they should be reasonable and proportionate.

The investigator here took the view that more checks should have been made because of the likely consequences if Mr M were to default. I accept of course that, if Mr M had defaulted on either loan, there would have been serious consequences for him. I do not believe however that this, of itself, meant that the bank's checks were insufficient.

There was nothing in the application or on Mr M's credit file to suggest that he would not be able to afford repayments. It is true that he had taken on further debt and obtained credit cards shortly before he took out the first loan. But that would not have been apparent from his credit file, which was not updated until later. He had been paying his existing commitments.

I note as well that Mr M was able to make payments to both loans. That does not necessarily mean that proper checks were carried out before they were agreed, of course, but it supports the bank's position.

In addition, the bank made it clear in the loan applications that it would rely on information provided by Mr M in its assessment of those applications. Mr M did not provide full information about, for example, his housing costs. And he said that the first loan was for a holiday, but he then used it to consolidate debt. The primary obligation to assess affordability lies with the lender, of course, and it cannot simply rely on information provided by the *borrower. Nevertheless, I do not think in this case that the bank was wrong to take into account what Mr M had told it when assessing the applications.*

In respect of the second loan – which Mr M said was to consolidate debt – the investigator took the view that repaying credit card debt could have the effect of giving Mr M access to further credit, because he would then be able to spend again up to his credit limits. I do not think however that I can fairly say that the bank should have approached the application on that basis. If Mr M had appreciated the need to consolidate debt, it would have been fair to assume that he was trying to reduce, not increase, his overall exposure.

For these reasons, my current view is that Bank of Ireland's assessments were proportionate and reasonable in the circumstances. I do not believe that anything in the applications or in the credit reports that suggested further checks were necessary.

Even if I were to take a different view on that, however, I do not believe that the remedy suggested by the investigator is fair. Since both loans were used to consolidate existing debt, Mr M is likely to have saved on interest payments. Had the loans, or either of them, been declined, Mr M would still have had to pay interest to other lenders.

In addition, removing any reference to the loans would, as the bank says, given an inaccurate picture of Mr M's financial circumstances to other potential lenders, making it easier for him to borrow in the future. That in my view is not consistent with his case that the loans were not affordable.

In response to my provisional decision, Bank of Ireland said that it had nothing to add.

Mr M clarified that he did not expect the loans to be written off but that his main concern was to have adverse credit information removed from his file. He also said, in summary:

- He has entered into a debt management, arranged through a debt advice charity. He now has a very low credit score, which means he cannot borrow any more.
- Bank of Ireland did not question him about the running costs of his other property, which should have been considered in the affordability assessment.
- The bank should have explored his situation in more detail and not relied on the information he provided on his application and the credit score alone.
- The bank should have requested bank statements from him. It was not clear that the ombudsman had reviewed the bank statements.

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 should clarify that, before I issued my provisional decision, I did consider all the available evidence about Mr M's financial situation, including evidence which had not been considered by the bank before it made its lending decisions. The evidence I considered included Mr M's bank statements.

As I said in my provisional decision, I think it likely that the bank's lending decisions would have been different if it had had a fuller picture of Mr M's finances. That, however, is not what I have to decide. I must consider whether, in the circumstances, the checks that the bank made were reasonable and proportionate. In my view, they were.

I accept too that Bank of Ireland could have requested further information from Mr M. It would not necessarily have been unreasonable or disproportionate to have done so. It does not follow however that it was obliged to seek more information or to check the information it had been given by Mr M. As I say, it was entitled to assume, in the absence of clear indications to the contrary, that Mr M had provided that information honestly and in full.

Although Mr M has not provided any further information on the point, I remain of the view that it is far from clear that declining the loan applications would have benefited him. He was consolidating existing debt, not taking on new debt. If the bank had turned down his applications, it is likely that his overall debt and financial circumstances would have been much the same as they are now.

My final decision

For these reasons, as well as those set out in my provisional decision, my final decision is that I do not require Bank of Ireland (UK) Plc to do anything more to resolve Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 22 September 2022.
Mike Ingram
Ombudsman