

The complaint

Mrs B complains that Clydesdale Bank Plc (trading as Yorkshire Bank) irresponsibly lent to her on a credit card, many loans, and an overdraft.

What happened

In 1999 Mrs B opened a credit card account with Yorkshire Bank, with an initial limit of £900 (going by the earliest available statement). She also had an overdraft facility for £200 in place at the time. Within a year of opening the credit card account Mrs B exceeded the limit, and remained at the top of it until it was increased to £1,400 at some point in 2000. Within a few months of that increase Mrs B was up to the new limit on the credit card – and in October 2000 she took out a loan to pay off the balance.

Following that first loan, Mrs B refinanced the borrowing 12 more times – with new loans often taken within a few months of each other. The earlier loans were sold with payment protection insurance (PPI) attached, financed by separate borrowing on top of the loan to pay for the premium upfront. By 2008 the total amount payable on the loan was over £32,000. The final loan was approved in 2017.

During the same period, the credit card limit was increased to £6,800 – before the account was eventually closed in 2010. Mrs B's authorised overdraft was also increased to £1,000. At a certain point Mrs B switched to a bank account with a monthly fee to try and limit her unauthorised borrowing and returned payment charges. That also had an overdraft facility.

In 2019 Mrs B's son, who has lasting power of attorney over her affairs, made a Subject Access Request (SAR) to Yorkshire Bank. After reviewing the amount of lending that had been approved over the years, Mr B's son raised a complaint. Yorkshire Bank responded to say it thought the lending had been affordable and it couldn't see any indications of financial difficulty. But the bank said it wasn't able to review the basis of all the lending decisions, due to a lack of information relating to the earlier ones.

Mrs B didn't agree and so referred the complaint to our service for review. An investigator here didn't think the complaint should be upheld. He could see Mrs B had been given a substantial amount of lending – but, owing to a lack of information about the checks, he didn't think he could safely say they hadn't been carried out correctly. Mrs B didn't accept the investigator's view, and so the complaint was passed to me for a final decision on the matter.

Having reviewed everything, I wrote to Yorkshire Bank to explain that I considered all of the lending approved to have been unaffordable. I believed it had all of the information it needed from her bank account to determine the initial credit card limit wasn't likely to be affordable – and the situation had spiralled from there. I said I intended to uphold the complaint, and direct Yorkshire Bank to refund all of the interest and charges applied to any lending approved from 1999 (the credit card) onwards. I added that I would be refunding any PPI attached to the loans, that hadn't already been paid back. I also said Mrs B should get all the monthly account fees paid on the bank account refunded – as she had only opted for that account due to the financial difficulty caused by the lending, and to limit the charges she was incurring. Any positive balances resulting from the refunds would have 8% yearly simple

interest applied to them.

I also said I planned to award Mrs B £2,500 in compensation for Yorkshire Bank's part in the debt cycle she was trapped in for over seventeen years. I thought the unaffordable lending had caused her substantial distress and worry, and also meant she had to take on a significant number of extra hours at work after the age of retirement.

Yorkshire Bank agreed to my provisional findings, but has since struggled to calculate the redress due. It has said missing information from the earlier years has meant an exact calculation isn't possible. But the bank has committed to providing an offer of 'alternative redress' that includes its best estimation to fill in any blanks. In order to bring the dispute to a close I'm issuing this final decision, so that there can be a timeline to finalising the calculations needed.

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.

Having done so, I'm upholding the complaint. Both parties have agreed in principle to the resolution I've proposed, so I won't go into lots of detail about my rationale. But before I set out my findings I want to acknowledge that I've described the timeline of events here very briefly, and in my own words. No discourtesy is meant by that, and my intention isn't to minimise what Mrs B went through in any way. I've focussed on some key points to help illustrate how I've reached my decision, which also reflects our service's informal nature.

We've set out our general approach to complaints about unaffordable/irresponsible lending - including all the relevant rules, guidance, and good industry practice - on our website. So I won't repeat it here. I appreciate that the earlier lending pre-dates some of those rules – but I've worked on the basis that the later guidance codified standards of good practice that had been around for a while. There's also been a longstanding expectation on banks to consider affordability when making lending decisions.

Bearing all that in mind, the questions I needed to answer in order to decide what's fair and reasonable in the circumstances of this complaint were:

- Did Yorkshire Bank complete reasonable and proportionate checks to satisfy itself that Mrs B would be able to afford to repay any lending in a sustainable way?
- If not, would proportionate checks have shown Mrs B could afford the credit?

Yorkshire Bank said that its affordability checks consisted of reviewing the information provided on any application, and checking the level of income against known information from the current account. So I've done the same for each of the lending decisions.

The credit card application gives Mrs B's net income as £470 per month, but the bank statements show she was paid £105 per week. So her monthly income was less than the amount stated on the form. The application also said Mrs B paid £40 in rent, but the current account statements show her rent was £210.34 per month. I've calculated that Mrs B's outgoings averaged £380 a month, and that's only considering essential bills and some very small cash withdrawals to pay for living costs. Based on disposable income of around £70 a month I don't consider a credit card limit of £900 was affordable. If Mrs B used the full amount of credit, and paid all of her disposable income towards the balance each month, it would take her over 15 months to pay it off. Even just paying back the minimum repayment on the card each month would leave very little contingency for unexpected expenses.

Though the affordability checks Yorkshire Bank said it completed for the credit card were likely proportionate – I find those checks should have produced a different result. Based on what I've seen from Mrs B's statements, I don't consider the lending on the credit card was affordable.

That initial unaffordable lending decision triggered a series of loans and further borrowing. Initially the first loan was taken to pay off the credit card balance. Later the loans were used to refinance the previous loan as well as pay off new balances on the credit card and overdraft (both of which had their limits increased significantly over time). That sent Mrs B into a spiral of taking out more and more borrowing to keep up – and resulted in an increasing proportion of the total amount owed being interest refinanced from the prior lending. Very little additional capital was ever lent over the years – each loan mostly refinanced existing (and growing) debt.

I've reviewed each of the lending decisions on the loans, and the limit increases on the credit card and overdraft – and, even when considered in isolation, I've found they were unaffordable. That's based on known information from the bank account about her income and outgoings, as well as how Mrs B was managing her existing borrowing in the run up to the decisions. So I don't consider Yorkshire Bank should have approved the lending on any of the loans, the credit card, or the overdraft (bar the initial £200 overdraft limit that pre-dated the credit card).

Putting things right

Yorkshire Bank should make the following calculations and payments to put right the mistakes identified above:

- It should refund: all interest charged on any of the borrowing across Mrs B's loans, credit card and overdraft/current account; as well as any charges applied (for late/missed/returned payments, exceeding limits etc); any PPI taken to cover the loans (as the loans shouldn't have been approved); and also any bank account fees. Mrs B only upgraded to an account with a monthly fee to try and limit unauthorised borrowing charges. So I don't think Mrs B would have needed to have an account with a monthly fee had the unaffordable lending not spiralled in the way it did.
- As the loans were each refinanced, and those were taken to refinance credit card lending, there will have been interest charged on interest on interest etc. So Yorkshire Bank will need to rework the lending journey, as if none of the lending after April 1999 was approved, so that Mrs B only pays for the actual capital spent.
- 8% simple interest yearly should be applied to any positive balance resulting from that re-working, from the time a credit balance started accruing up until settlement is paid. If Yorkshire Bank considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs B how much it's taken off. It should also give Mrs B a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.
- If there are any credit file entries still remaining for any of the lending I've said was unaffordable then Yorkshire Bank should remove those.
- Yorkshire Bank's mistakes have had a significant impact on Mrs B – over a very long period of time. She was lent to relentlessly, and none of it I consider was affordable/responsible. I've not seen any account activity that I would consider 'extravagant' from Mrs B over the years either – all of the spending I saw was very

modest. That's meant she's been put her under serious financial pressure for nearly two decades. When the total lending reached its peak between 2008-2011 Mrs B increased the number of hours she was working significantly (her job/position didn't change but there was an uplift in her wages of around 40%) to cope with the amount she'd been lent. This is after she'd already reached retirement age of 65 – not usually a time when people consider working more hours than ever. But Mrs B has told us she felt like she had to, and blamed herself for the spiralling debt situation she found herself in. For that level of impact, and the sustained nature of the worry and stress that Yorkshire Bank has contributed to over so many years, I consider an award of £2,500 (in addition to any refund following the above calculations) would be fair and reasonable in the circumstances.

I appreciate that for some of the earlier lending decisions there is incomplete data. I'm thinking particularly about the credit card, where we don't have the initial statements, so interest and charges will be unknown for the first few months. But we have some statements from January 2000 – so any period that can't be accurately calculated should be estimated based on usage during the time we have the information for. We have the bank statements needed for the overdraft and account fee/charges refund calculations – and from those statements we know the amount of every loan (as it was paid into the current account), and the monthly repayment towards it. I'm confident that using that information a calculation can be done to, at least, estimate all the interest paid.

If Yorkshire Bank considers it will be difficult to make those calculations within the required timeframe, then it has the choice to either:

- employ outside professional help in putting together its offer, and making those estimations/calculations – or;
- it should refund everything that was paid towards the loans it can't accurately calculate the interest on. Each loan was usually refinanced within a few months, and early payments would likely have been largely put towards the interest anyway.

Any estimated figures should be clearly signalled when Yorkshire Bank sets out how it's calculated its offer to Mrs B.

My final decision

My final decision is I uphold Mrs B's complaint about Clydesdale Bank Plc, and direct the bank to 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 B to accept or reject my decision before 1 December 2022.

Ryan Miles
Ombudsman