

Complaint

Mrs S has complained that Sainsbury's Bank Plc ("Sainsbury's") irresponsibly provided her with an unaffordable credit card. She said that she was provided with this credit card at a time when she was already struggling because she had no income due to the pandemic.

Background

Mrs S was provided with a credit card, which had a credit limit of £2,200.00, in May 2020.

One of our adjudicators reviewed what Mrs S and Sainsbury's had told us. And she thought that Sainsbury's shouldn't have provided Mrs S with her credit card. So she upheld Mrs S' complaint.

Sainsbury's didn't agree, so the case was passed to an ombudsman for review.

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 explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Mrs S' complaint.

Having carefully considered everything provided, I'm upholding Mrs S' complaint. I'll explain why in a bit more detail.

Sainsbury's needed to make sure that it didn't lend irresponsibly. In practice, what this means is Sainsbury's needed to carry out proportionate checks to be able to understand whether Mrs S could afford to repay before providing her with a credit card.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

The credit card Mrs S was provided with had a credit limit of £2,200.00. And as a credit card is a revolving credit facility, Sainsbury's was required to understand whether Mrs S could repay around £2,200.00 within a reasonable period of time.

Sainsbury's says that Mrs S was asked to provide a declaration of her income and she stated it was around £11,000.00 a year. Although it hasn't provided me with evidence of how this declaration was captured or shown me what exactly Mrs S was asked to confirm.

I can also see that Sainsbury's carried out a credit check which showed that Mrs S had total unsecured debt of around £8,000.00 and that no significant adverse information such as defaults or county court judgments had been recorded against her.

I appreciate that Sainsbury's did capture some information about Mrs S' circumstances. In particular, I note that it has said that it relied on Mrs S' declaration of income. However, CONC 5.2A.16 (G)(3) states:

For the purpose of considering the customer's income under CONC 5.2A.15R, it is not generally sufficient to rely solely on a statement of current income made by the customer without independent evidence (for example, in the form of information supplied by a credit reference agency or documentation of a third party supplied by the third party or by the customer).

And I'm also particularly mindful that Mrs S' application took place at time where incomes were reducing, or at the very, least fluctuating because of the unprecedented situation. Bearing in mind all of this, I would have expected Sainsbury's to have obtained some kind of independent verification of Mrs S' income before agreeing to lend to her.

Furthermore, I would also have expected Sainsbury's to have obtained some kind of understanding of Mrs S' non-discretionary expenditure. I accept that it partially did this, as by carrying out a credit check it had an idea of what her existing credit commitments were like. But this alone won't have told it anything about Mrs S' other essential living costs – such as bills. So I don't think that Sainsbury's found out enough about Mrs S' circumstances and as this is the case, I'm satisfied the checks it carried out weren't reasonable and proportionate.

As reasonable and proportionate checks weren't carried out before this credit card 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 Sainsbury's that Mrs S would have been unable to sustainably repay this credit card.

Sainsbury's was required to establish whether Mrs S could repay her entire balance, if drawn down, within a reasonable period of time, without experiencing significant adverse consequences – not just whether the minimum payment was technically affordable on a strict pounds and pence calculation. I think it's important for me to highlight this given Sainsbury's has said Mrs S did make her payments.

I've carefully considered the information provided in this context. Having done so, it's clear that Mrs S' income was significantly less than what Sainsbury's believed it to be. And her income was pretty much being used to meet her living costs and existing commitments to creditors. So she didn't have sufficient funds to be able to make her payments and I think that proportionate checks would more likely than not have shown Sainsbury's that Mrs S was unlikely to be able to make her payments without borrowing further or suffering significant adverse consequences.

Bearing all of this in mind, I'm satisfied that reasonable and proportionate checks would more likely than not have demonstrated that Mrs S would not have been able to make the repayments to this credit card 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 Sainsbury's to the fact that Mrs S was in no sort of position to make the payments on this credit card without suffering significant adverse consequences.

As Sainsbury's provided Mrs S with this credit card in these circumstances, I'm satisfied that it didn't act fairly and reasonably towards her.

Mrs S went on to and is being expected to pay interest and charges on credit that she shouldn't have been provided with. So I'm satisfied that she has lost out as a of what Sainsbury's did wrong. And I'm satisfied that Sainsbury's now needs to put things right.

Fair compensation – what Sainsbury's to do to put things right for Mrs S

Having carefully considered everything, I think that it would be fair and reasonable, in all the circumstances of Mrs S' complaint, for Sainsbury's to put things right in the following way:

- rework Mrs S' credit card to ensure that no interest at all is charged - to reflect the fact that this account should never have been provided in the first place. All late payment and over limit fees should also be removed;
- if an outstanding balance, or balances, remains on Mrs S' account once all adjustments have been made Sainsbury's should contact Mrs S to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Mrs S' credit file.
- if the effect of all adjustments results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mrs S along with 8% simple interest† on the overpayments from the date they were made until the date of settlement. If no outstanding balance remains on Mrs S' account after all adjustments have been made, then Sainsbury's should remove any adverse information recorded about this card from Mrs S' credit file;

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

My final decision

For the reasons I've explained, I'm upholding Mrs S' complaint. Sainsbury's Bank 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 S to accept or reject my decision before 7 April 2023.

Jeshen Narayanan
Ombudsman