

## The complaint

Ms B complains that Sainsbury's Bank Plc was irresponsible to lend to her.

## What happened

Ms B had one loan from Sainsbury's in August 2015 as follows:

| <u>Loan</u> | <u>Date</u> | <u>Amount</u> | <u>Term</u> | <u>Monthly<br/>Repayment</u> | <u>Due</u>  | <u>Repaid</u> |
|-------------|-------------|---------------|-------------|------------------------------|-------------|---------------|
| 1           | 19 Aug 2015 | £15,000       | 84m         | £239.37                      | 19 Aug 2022 | Sold to DCA*  |

\* *Debt Collection Agency*

Ms B says she does not believe Sainsbury's carried out sufficient checks before agreeing to the lending. She says it also continued to charge interest after she requested the account to be frozen due to personal circumstances. Ms B adds that she's suffered physical and mental ill-health and her stress levels have been very high.

Sainsbury's initially objected to this service looking at the merits of Ms B's complaint as she'd complained more than six years after she'd taken out the loan and therefore, it said, it was out of jurisdiction. However, an ombudsman has now considered this objection and has decided it is a complaint this service can consider.

Sainsbury's says it looked at the information provided by Ms B alongside a credit check and its own criteria before approving the loan. It says it was satisfied appropriate checks were carried out and that Ms B agreed to the payments when signing the loan agreement. Sainsbury's acknowledges that the account fell into arrears in November 2019 and said Ms B advised these would be repaid by the end of May 2020. It says that, when this did not happen, the account was defaulted and passed to a debt collection agency.

Our investigator did not recommend the complaint should be upheld. He did not consider Sainsbury's carried out proportionate checks but was satisfied that, based on the available information, proportionate checks would not have shown the loan was unaffordable to Ms B.

Ms B responded to say, in summary, that, Sainsbury's had a legal responsibility to carry out certain checks and it failed to do so.

## 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 need to take into account the relevant rules, guidance and good industry practice.

Bearing this in mind, in coming to a decision on Ms B's case, I have considered the following questions:

- Did Sainsbury's complete reasonable and proportionate checks when assessing Ms B's loan application to satisfy itself that she would be able to repay the loan in a sustainable way?
  - If not, what would reasonable and proportionate checks have shown?
- Did Sainsbury's make a fair lending decision?
- Did Sainsbury's act unfairly or unreasonably in some other way?

As the loan was taken out almost eight years ago, Sainsbury's has limited information about the affordability checks it carried out at the time. It says:

- The loan was for home improvements;
- Ms B was divorced with four dependants;
- She declared her income to be around £5,469 per month;
- It recorded her mortgage payment as £1,005 per month;
- The credit check showed over £29,000 of unsecured debt with monthly repayments of £931;
- There was no adverse information on Ms B's credit file;
- It estimated her regular expenditure to be £400 per month.

As the loan was for seven years, and Sainsbury's needed to be sure the repayments were sustainable for that period, I consider proportionate checks should have included, as a minimum, a verification of Ms B's income and confirmation of her housing and credit commitments. Sainsbury's has been unable to provide the detail of any checks it carried out, so I've had a look at Ms B's bank statements from the time to ascertain what proportionate checks were likely to have shown:

- Ms B's income was slightly higher than the figure she'd declared;
- Her mortgage payments were £1,044;
- Ms B's monthly credit commitments appeared to be slightly lower than the £931 calculated by Sainsbury's;

Taking this into account, including the loan repayment of £239, Ms B was left with over £3,000 per month with which she would need to pay her regular bills. Having again considered what the bank statements show, I'm satisfied the loan was sustainably affordable, alongside all Ms B's other regular commitments.

So, I find Sainsbury's made a fair lending decision.

I acknowledge that Ms B says Sainsbury's had a legal responsibility to carry out certain checks but that isn't the case. The Financial Conduct Authority (FCA) was the regulator when Sainsbury's lent to Ms B. Its rules and guidance obliged it to lend responsibly. As set

out in the regulator's Consumer Credit Sourcebook (CONC), this meant that Sainsbury's needed to take reasonable and proportionate steps to assess whether or not a borrower could afford to meet their loan repayments in a sustainable manner over the lifetime of the agreement. But there were no set checks that a lender was required to carry out.

I've also considered whether Sainsbury's acted unfairly in any other way as I note that Ms B does not feel it responded appropriately to her financial difficulties. I can see Ms B's loan account first went into arrears in November 2019 and Ms B told Sainsbury's this was due to looking after her mother who was ill at the time. Shortly afterwards, Ms B told Sainsbury's that she had been furloughed at work due to the pandemic but was due to receive a grant with which she would repay the arrears in May 2020. I can see Sainsbury's refunded the fees it charged for the missed payments and allowed her more time to make the payments. However, when it had received no repayments by July 2020, Sainsbury's defaulted the loan and sold the account to a debt collection agency. I can't conclude that Sainsbury's acted unfairly in that respect.

In summary, I don't find the lending was irresponsible, although I do sympathise with the series of difficult situations in which Ms B found herself from 2016 onwards. I understand Ms B will find my decision disappointing, especially after everything she has been through, but I can't conclude Sainsbury's has done anything wrong.

### **My final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 17 July 2023.

Amanda Williams  
**Ombudsman**