

## The complaint

Ms D complains Nationwide Building Society irresponsibly provided her with two unaffordable personal loans.

Ms D is represented on her complaint, but for ease I'll refer to all submissions as though they are her own.

## What happened

Nationwide provided Ms D with the following loans:

Loan	Date of loan	Capital amount	Term (months)	Monthly repayments	Total repayable value
Loan 1	January 2017	£3,900	60	£90 (approx.)	£5,200 (approx.)
Loan 2	June 2017	£9,656	84	£162 (approx.)	£13,600 (approx.)

In August 2022 Ms D referred a complaint to Nationwide about irresponsible lending. She said had it completed reasonable and proportionate checks when approving these loans, it would have identified she couldn't sustainably afford the repayments; and that it therefore irresponsibly provided them.

Nationwide said its checks were reasonable and proportionate and that it made fair lending decisions when providing both loans. It therefore didn't uphold Ms D's complaint, so she brought it to our service for review.

Our investigator reviewed the details and upheld Ms D's complaint in part. He said he considered Nationwide's checks hadn't gone far enough at either lending event, and as such weren't proportionate at the time of either lending decision. He considered what proportionate checks would likely have shown Nationwide at each event and concluded it made a fair lending decision when approving loan one. But he said that by loan two it should have been clear to Nationwide that this further borrowing wasn't sustainably affordable for Ms D, and therefore it didn't make a fair lending decision when providing loan two.

Ms D responded accepting the unaffordable lending findings but questioning Nationwide's activity outside of the lending decisions. She said she should receive compensation for the distress and inconvenience caused by Nationwide's handling of her complaint, and by continuing to contact her to collect the outstanding balance. She also asked that any adverse information be removed from her credit file.

Nationwide responded and agreed in principle; but after our investigator looked the clarify the redress set out within his assessment, he wasn't able to be satisfied that Nationwide's acceptance was in line with his recommendations.

So as an agreement couldn't be reached the complaint has been passed to me to decide.

This decision focuses on the personal loans provided by Nationwide. Ms B's complaint about unaffordable lending on a credit card with Nationwide is being dealt with under a separate

complaint reference; although in both complaints I've taken into account the overall picture Nationwide had available to it at each individual lending event.

### **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've reached the same outcome as our investigator, for broadly the same reasons.

We've set out our approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website; and both Ms D and Nationwide are aware of this.

Nationwide needed to take reasonable steps to ensure the lending it provided was responsibly lent to Ms D. The relevant rules, regulations and guidance at the time of each of Nationwide's lending decisions required it to carry out reasonable and proportionate checks. These checks needed to assess Ms D's ability to afford the credit limit being approved and repay it sustainably, without causing her financial difficulties or harm.

There isn't a set list of checks a lender needs to carry out, but they should be proportionate, taking into account things like the type, amount, duration and total cost of the credit, as well as the borrower's individual circumstances.

And it isn't sufficient for Nationwide to just complete proportionate checks – it must also consider the information it obtained from these checks to make fair lending decisions. This includes not lending to someone in financial hardship; and ensuring repayments can be made sustainably without the need to borrow further.

Both parties appear to agree with our investigator's assessment and outcome; that the loan provided in June 2017 was unaffordable for Ms D and as such was irresponsibly lent. Ms D has said she understands why our investigator has recommended the redress he has, based on the outcome he reached in his assessment; and Nationwide has agreed in principle to the redress proposed by our investigator.

As such, there's no longer an ongoing dispute about the unaffordable lending of these loans. But what remains in dispute is how Nationwide should put Ms B back in the position she would have been in had loan two not been approved. And it's handling of her complaint and continued contact to recover the outstanding balance.

So, my findings here focus on what steps I consider Nationwide need to take to fairly resolve this complaint.

Nationwide has said it agrees with our investigator's assessment; which recommended all interest, fees and charges for loan two be refunded, and that all payments Ms D has made to date be applied to the capital amount originally lent.

Having reviewed the details, I consider this is a fair outcome. I say this because our general approach to unaffordable and irresponsible lending is well documented on our website. And where we find a business shouldn't have lent, our usual approach in order to look to put the consumer back in the financial position they would have been in (as far as reasonably possible) is to direct a business to remove all interest, fees and charges applied to the loan. But, as the consumer has had the benefit of the capital amount lent, we'd generally say this should be repaid.

Our investigator's recommendation is in line with this approach, which Nationwide has accepted. And having reviewed the evidence on file I see no reason to depart from our well documented approach in the individual circumstances of this complaint.

I'm aware and I've taken great consideration over Ms D's personal situation and all of the information that she's told us. I've also considered the information Ms D has told us about Nationwide's continued contact when looking to recover the outstanding balance; and how it handled her complaint. But I can't find Nationwide has acted unreasonably in either event.

I understand continued contact in relation to recovery of the outstanding balance, and at times from third parties, will have been distressing to Ms D, especially given the personal circumstances she's made us aware of. But Nationwide or any third party it has instructed is reasonably entitled to look to recover the debt; and I can't reasonably say it has acted unfairly by contacting Ms D to look to recover the outstanding balance in this instance.

And in relation to its handling of Ms D's complaint, I've not seen anything which suggests it didn't act within reasonable timeframes or was unreasonable in the approach it's taken.

So, taking all of the above into account and having carefully considered all of the evidence in this case, I'm satisfied Nationwide shouldn't have provided Ms D with loan two and it therefore follows it needs to take further action in resolution of this complaint.

### **Putting things right**

As Ms D's had the benefit of loan two, I think it's fair she repays the capital amount borrowed. But Ms D has paid interest on a loan that shouldn't have been provided. So, I think she's lost out and Nationwide Building Society should put things right by taking the following action:

- Remove all interest, fees and charges applied to loan two from the outset. Any payments made by Ms D should then be deducted from the new starting balance.
  - a) If the payments Ms D has made total more than the amount originally lent, then any surplus should be treated as overpayments and refunded, together with 8% simple interest\* calculated on any overpayments made, from the date they were paid by Ms D to the date the complaint is settled.
  - b) If after the adjustments have been made there is still an outstanding balance to pay Nationwide Building Society should discuss arranging a suitable/affordable payment arrangement for the remaining balance, while having due consideration for Ms D's vulnerabilities and ability to make repayments.
- Remove any adverse information recorded on Ms D's credit file as a result of loan two once any outstanding balance has been repaid.

\*HM Revenue & Customs requires Nationwide Building Society to deduct tax from this interest. Nationwide Building Society should give Ms D a certificate showing how much tax it's deducted, if she asks for one.

Given all of the information Ms D has told us about her past and current financial and health circumstances, I would remind Nationwide of its obligations to treat her fairly and sympathetically when contacting her and looking to arrange any repayment arrangement for any outstanding balance.

**My final decision**

My final decision is that I'm upholding Ms D's complaint in part about Nationwide Building Society and direct it to resolve the complaint as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 10 November 2023.

Richard Turner  
**Ombudsman**