

The complaint

Mr B's complaint is that Nationwide Building Society irresponsibly provided him with three unaffordable loans.

What happened

Nationwide provided Mr B with the following loans:

Loan	Date of loan	Capital amount	Term (months)	Monthly repayments	Total repayable value
Loan 1	May 2019	£1,000	12	£94 (approx.)	£1,123 (approx.)
Loan 2	June 2019	£1,000	12	£94 (approx.)	£1,123 (approx.)
Loan 3	January 2020	£5,000	30	£177 (approx.)	£5,300 (approx.)

In April 2022 Mr B referred a complaint to Nationwide about unaffordable lending. He said had it completed reasonable and proportionate checks it would have identified that all three of these loans were unaffordable for him.

Mr B brought his case to our service for review when Nationwide didn't uphold his complaint

Our investigator upheld Mr B's complaint in full. He concluded Nationwide hadn't completed reasonable and proportionate checks at any of the lending decisions and that it had made unfair lending decisions.

Nationwide didn't agree with our investigator's outcome. It maintained its argument that its checks were reasonable and proportionate and that it made fair lending decisions when providing Mr B with all three loans.

I recently issued a provisional decision where I set out, with reasons, my initial thoughts on this case and what I was intending to decide.

The following is an extract from my provisional decision:

"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.

Nationwide needed to take reasonable steps to ensure it lent responsibly to Mr B. The relevant rules, regulations and guidance at the time Nationwide provided the lending required it to carry out reasonable and proportionate checks. These checks needed to assess Mr B's ability to afford the loan and repay it sustainably over its term, without causing him financial difficulties or harm.

There isn't a set list of checks Nationwide needed to carry out, but the checks should be proportionate, considering things like the type, amount, duration, and total cost of the credit, as well as Mr B'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 when going on to provide the lending. This includes not lending to someone in financial hardship; and ensuring repayments can be made sustainably without the need to borrow further.

Loan one

Nationwide says it verified Mr B's income and rent payments using a combination of information he declared, internal data it already held, and credit file data it obtained.

Nationwide says it used Office of National Statistics (ONS) data to calculate Mr B's monthly expenditure, and it completed a credit check to understand Mr B's existing credit commitments and financial history.

Having carefully considered all of the evidence and arguments; I'm currently persuaded that Nationwide's checks at loan one were reasonable and proportionate.

I say this because Nationwide verified Mr B's declared income using a number of measures as set out above. It was able to reasonably satisfy itself that the income Mr B declared as £2,200 at loan one was broadly in line with the information it obtained through these checks.

Nationwide used ONS data to calculate Mr B's non-discretionary monthly spending. The use of ONS data is an industry recognised practice of obtaining an understanding of an individual's regular monthly expenditure; and is based on average data from individuals with similar circumstances. Nationwide took into account around £667 non-discretionary expenditure for loan one and factored in Mr B's declared £300 payments for his rent.

It then completed a credit check and identified Mr B had existing monthly credit commitments totalling around £485. There were no signs of adverse information such as a bankruptcy, defaults, CCJs or arrears.

Nationwide therefore concluded Mr B was left with a disposable income of around £750 per month; and reasonably concluded this was sufficient to cover the loan payments of around £94, while also leaving Mr B with a reasonable surplus for other discretionary spending and any unexpected costs that may occur.

Reviewing the checks Nationwide completed and the information it obtained, I don't consider there was anything which ought reasonably to have caused it concern; or anything which appeared to contradict any of the information it had obtained from various sources. Therefore, I don't consider, based on this information and the relatively modest terms of the lending being provided, that there was anything that ought reasonably to have led Nationwide to determine its checks weren't proportionate and that more detailed checks were required at this lending event.

So, based on the information Nationwide obtained from these proportionate checks, I consider loan one appeared sustainably affordable for Mr B across its term. And it therefore follows I consider Nationwide made a fair lending decision when approving loan one.

Loans two and three

Nationwide has confirmed it completed the same checks for loans two and three as it did for loan one.

These checks identified Mr B would be left with around £650 and £780 which it considered a reasonable level to service the monthly loan commitments of around £94 and £177; and leave Mr B with a sufficient buffer for other discretionary spending.

I've carefully considered Nationwide's checks at loans two and three; and having done so I'm currently persuaded to say they weren't proportionate in the individual circumstances.

I say this because I consider Mr B's financial behaviours should reasonably have caused Nationwide concern. Just two months before Mr B applied for loan two, Nationwide had provided Mr B with loan one which was repayable over a 12-month term; but which had already been repaid in full and settled. And within just three days of repaying loan one Mr B was returning to Nationwide to obtain further lending under the same terms. This doesn't suggest that Mr B was someone who was managing their finances well.

Nationwide should also have been able to identify through the internal data and bureau checks that it says it completed that Mr B was persistently using the overdraft limit on his Nationwide bank account in the months leading up to loan two. Although a relatively modest limit of £200, in March and April 2019 the account didn't enter a credit balance; and on occasions went above the agreed limit for several days in each month before Mr B made small transfers to bring the account just back within the limit.

So, I consider it should have caused Nationwide concern that Mr B wasn't able to bring his account into a credit position in the months leading up to loan two; or keep it within its relatively modest limit even though its calculations suggested he would be left with around £650 disposable income at the point of loan two.

I consider proportionate checks ought to have led to Nationwide obtaining a better understanding of Mr B's financial situation, which should have at least included it fully reviewing the management of his Nationwide bank account. Had Nationwide undertaken this review it would have identified that most transactions going through Mr B's Nationwide bank account were to online gambling companies. So, it would have identified that Mr B was solely using the credit Nationwide had provided by way of an overdraft facility – and loan one – to gamble.

In the three months leading up to loan two Mr B made over 80 transactions to online gambling companies. These totalled over £4,100 and significantly increased after loan one was approved. These transactions were generally spread across the months, and in May 2019 there were multiple examples of days where Mr B would make more than five online gambling transactions a day. On one occasion Mr B made eight transactions in one day totalling £800. Given Nationwide was satisfied Mr B's income was around £2,200 per month this means in a single day Mr B had gambled approximately a third of his monthly income.

As this activity was taking place on Mr B's Nationwide bank account, it would have had the benefit of being able to review this information live; and it would have been able to have identified that this pattern continued into June 2019 before loan two was approved.

I'm therefore satisfied reasonable and proportionate checks would have led Nationwide to identify the information I've found above; and to have reasonably concluded Mr B wasn't a suitable candidate to lend to. So, it follows in this instance I don't consider Nationwide made a fair lending decision when approving loan two.

For the reasons I've already set out above it follows that I don't consider Nationwide's checks were reasonable or proportionate at loan three either; or that it went on to make a fair lending decision when providing loan three.

I say this because the pattern of gambling continued after loan two. Although it did reduce and ultimately appear to stop over the coming months, Mr B's management of his Nationwide bank account was consistent throughout; heavy utilisation of the overdraft limit with the balance going above the agreed limit. This was the case between July to December 2019 where the account didn't at any point enter a credit balance position and in each month the balance went above the agreed limit for days at a time. This was the case even with Nationwide increasing Mr B's overdraft limit to £800 in July 2019.

Loan two for £1,000 credited Mr B's Nationwide account on 28 June 2019 and by 1 July 2019 the account was already back within its overdraft limit; after Mr B had made nine transactions to online gambling companies totalling £800.

I've also seen that Nationwide wrote to Mr B in November 2019, setting out that his bank account balance had gone over the recently increased £800 overdraft limit; and requested Mr B to bring the balance back within the approved facility limit. While it appears it was only in November 2019 that Nationwide sent this correspondence, I've seen that Mr B's bank account balance had gone above its agreed limit in each of the six months leading up to loan three; on multiple occasions in some months and for days or weeks at a time.

So, I consider this further demonstrates that Nationwide ought to, and indeed did, have concerns about Mr B's management of his accounts; and therefore, that proportionate checks would have included a more detailed review of Mr B's financial situation. It also follows that these checks would have indicated Mr B wasn't a suitable candidate to lent to, and as such I'm satisfied it didn't go on to make a fair lending decision when providing Mr B with loan three."

Nationwide responded accepting my provisional decision. Mr B disagreed. He presented further points to support his argument that Nationwide shouldn't have provided loan one; and his arguments for this heavily focused on a complaint he'd raised about his overdraft which our service upheld from May 2017. Mr B said as we had concluded the overdraft limit increases from May 2017 were irresponsibly lent, it followed that loan one advanced in May 2019 was also irresponsibly lent.

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 not seen anything which leads me to depart from the conclusions I reached within my recent provisional decision. I appreciate this will be disappointing to Mr B given his strength of feeling on the matter, but I'd like to ensure him I've very carefully considered the further points he's raised in response to my provisional decision.

While our service has found that Nationwide irresponsibly provided Mr B with overdraft limit increases from May 2017 onwards, the latest increase before loan one was the increase in May 2017. Nationwide reduced Mr B's overdraft limit after May 2017, with the last decrease before loan one being in February 2018. So, I consider that a reasonable period of time had passed between the last change to Mr B's overdraft limit and loan one being approved for there to have reasonably been a change in his circumstances.

While I appreciate Mr B has said his circumstances hadn't changed within that period of time, I don't consider it unreasonable for Nationwide to have relied on the checks it completed at loan one, rather than conducting more detailed checks as Mr B suggests it should have.

As such, I'm satisfied Nationwide's checks at loan one were proportionate and it went on to make a fair lending decision when providing loan one.

As both parties have accepted my findings in relation to loans two and three, I see no reason to depart from these as set out within my provisional decision.

So, in summary Nationwide shouldn't have provided Mr B with loans two and three and it therefore follows it needs to take action to fairly resolve this complaint.

Putting things right

Mr B's had the benefit of loans two and three, so I consider it's fair that he repays the capital amounts lent. But Mr B has paid interest on loans that shouldn't have been provided. So, Mr B has lost out and Nationwide Building Society need to put things right by taking the following action:

- Remove all interest, fees and charges applied to loans two and three from the outset. Any payments made by Mr B should then be deducted from the new starting balances.
 - a. If the payments Mr B has made total more than the amount he was originally lent, then any surplus should be treated as overpayments and refunded to him, together with 8% simple interest* calculated on any overpayments made, from the date they were paid by Mr B to the date the complaint is settled.
 - b. If after the adjustments have been made there is still a balance to pay Nationwide Building Society should discuss arranging a suitable/affordable payment arrangement with Mr B for the remaining balance.
- Remove any adverse information recorded on Mr B's credit file as a result of loans two and three 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 Mr B a certificate showing how much tax it's deducted, if he asks for one.

My final decision

For the reasons set out above and in my recent provisional decision, I'm upholding Mr B's complaint about Nationwide Building Society and require it to take the above action in resolution of the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 22 November 2023.

Richard Turner
Ombudsman