

The complaint

Miss B complains about a loan granted to her by Bank of Ireland (UK) Plc (BOI). She says that BOI shouldn't have agreed to the loan because it was unaffordable for her.

What happened

BOI agreed a loan for Miss B in July 2019. The loan was for £13,000 to be repaid in monthly instalments of £302.28 over five years, and the total amount owed was £18,136.80.

Miss B said that BOI didn't carry out sufficient checks before lending to her to know she could repay its loan without having to borrow more. She could not afford the loan and is in financial difficulties, as she was then. She has suffered stress and anxiety as a result.

BOI said that it approved Miss B's loan application based on information she'd provided and what it could see on her credit file. It used national statistics to estimate her living costs. BOI concluded it hadn't lent irresponsibly and didn't uphold Miss B's complaint.

Our investigator found that it would have been reasonable and proportionate of BOI to have looked further into Miss B's circumstances before lending to her. And he said that BOI would likely have learnt that Miss B didn't have enough money to cover the loan repayments without them causing her financial harm. He concluded that Miss B's complaint should be upheld and recommended that she shouldn't pay any interest or charges for her loan.

BOI didn't agree with this recommendation and asked for the complaint to be reviewed by an ombudsman. It said it did not need to carry out further checks as its income verification demonstrated a slightly higher income than Miss B declared. And there was no adverse information on the credit check. It said it would be impractical to request bank statements for every application as customers expect a quick, streamlined decision. It said whilst its affordability result was 'close' at £67 of net monthly disposable income, the fact the account was up-to-date as recently as February 2023 suggests its assessment was reasonable.

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.

BOI will be familiar with the regulations in place at the time so I won't set them out in detail but will summarise them and refer to them where appropriate. BOI needed to check that Miss B could afford to meet her repayments without difficulty before agreeing the loan. In other words, it needed to check that she could meet her repayments out of her usual means without having to borrow further and without experiencing financial difficulty or other adverse consequences. The checks needed to take into account both the nature of the credit (the amount offered or the loan term, for example) and Miss B's particular circumstances. The overarching requirement was that BOI needed to pay due regard to Miss B's interests and treat her fairly.

With this in mind, my main considerations are did BOI complete reasonable and

proportionate checks when assessing Miss B's application to satisfy itself that she would be able to make her repayments without experiencing adverse consequences? If not, what would reasonable and proportionate checks have shown and, ultimately, did BOI make a fair lending decision?

Having considered everything carefully, I am upholding Miss B's complaint. I appreciate that this will be very disappointing for BOI and I hope the following clearly explains my reasons for doing so.

BOI has told us it carried out an income and expenditure assessment when Miss B applied for her loan. It used the income she declared, and that it verified, and modelled her likely outgoings based on national statistics. It completed a credit check to understand her credit commitments. It hasn't shared all the result of these checks but it has told us that this showed she would have £67 net disposable income each month after taking on this loan. I cannot see that BOI asked about the purpose of the loan, it has not shared this in the information it submitted.

I am not persuaded that these checks meant it had met its obligation to check that taking on this loan would not cause Miss B any financial harm. So I don't agree they were proportionate. The loan was over a five-year term and that amount of disposable income gave Miss B very limited flexibility for, say, expenses that were unexpected, seasonal or not accounted for. In these circumstances I think BOI needed to complete a more detailed financial review before agreeing to lend.

I have looked at Miss B's bank statements for the three months prior to her application. I am aware BOI argues it would be impractical to request bank statements for every application as customers expect a quick, streamlined decision. But I am not saying BOI had to do exactly this, just that it is a reliable way for me to understand what better checks would most likely have shown. I would add however that whilst customers may seek 'a quick, streamlined' decision the lender still needs to ensure its checks facilitate responsible lending decisions. And the individual circumstances of each application may mean further checks are needed in certain cases.

The bank statements show that Miss B did not have the means to take on more debt. She was persistently reliant on her overdraft – and BOI would have known from its credit check she had opened a new loan and credit card in that three-month period. So I find there were clear signs of financial pressure. BOI has not shown that it knew the loan was for debt consolidation, so it seems it was adding to Miss B's outgoings that were already beyond her means. It was therefore most likely Miss B would be reliant on her overdraft facility to meet her repayments – so she would be, in essence, borrowing to repay.

It follows I find BOI was wrong to lend to Miss B.

I have thought about BOI's argument that whilst its affordability result was 'close' at £67 of net monthly disposable income, the fact Miss B's account was up-to-date until February 2023 suggests its assessment was reasonable. But this does not change my conclusion as it does not know that Miss B was making her repayments sustainably, and without suffering adverse financial consequences. For this reason we would not consider her repayment history to be a reasonable defence of its lending decision.

Putting things right

I think it's fair that Miss B repays the capital she borrowed as she's had the use of this but I don't think she should pay any interest or charges on this loan, which I've found to have been irresponsibly given. In summary BOI should:

- Cap the amount Miss B needs to repay at £13,000; and
- Consider all payments Miss B made as payments towards this capital amount; and
- If Miss B has paid more than this then BOI needs to refund these overpayments to him along with 8% simple interest per annum* from the date of payment to the date of settlement of this complaint; or
- If Miss B has not yet repaid the capital, then BOI needs to treat Miss B fairly and with forbearance and due consideration regarding her outstanding balance. This may mean coming to an affordable repayment plan with her.
- Remove any negative information about this loan from Miss B's credit file once any outstanding capital balance has been repaid.

* HMRC requires BOI to take off tax from this interest. BOI must give Miss B a certificate showing how much tax it's taken off if she asks for one. If it intends to apply any refund to reduce the capital balance outstanding it must do so after deducting the tax.

My final decision

I am upholding Miss B's complaint. Bank of Ireland (UK) Plc must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 19 March 2024.

Rebecca Connelley
Ombudsman