

The complaint

Mr M is unhappy that Nationwide Building Society will not write-off his debt, nor amend his credit file, despite his vulnerabilities.

What happened

Mr M took out a credit card from Nationwide on 16 March 2018. He was given a credit limit of £1,600. In May 2018 Mr M contacted Nationwide to explain he was out of work, was struggling financially and had health issues. It completed an income and expenditure assessment with him. It says this showed Mr M could afford the minimum payment.

Mr M said he was going to contact StepChange so a hold was put on the account but it seems he did not progress this. The line of credit was closed and the account defaulted in October 2018.

Mr M says his debt should be written-off in full, and any related adverse information on his credit file removed, because of his mental health issues.

Nationwide said it wouldn't write-off the debt because Mr M could afford to meet the minimum payments. It did however agree to refund all interest and charges applied to the account.

Our investigator did not uphold Mr M's complaint. He said there was no evidence Nationwide was aware of Mr M's vulnerabilities when he applied. It carried out proportionate checks and made a fair lending decision based on the results. When Mr M struggled to make his repayments Nationwide acted with forbearance by removing all interest and charges applied to the account, offering a repayment plan and offering breathing space with payment breaks. He said Nationwide has correctly reported Mr M's credit history - the default applied is an accurate reflection of how the account performed.

Mr M disagreed with this assessment and asked for an ombudsman's review. He said his mental disabilities of bipolar disorder, severe depression, dyspraxia and traits of Asperger's syndrome were not taken into account when he applied for the credit card. So the whole debt should be completely written off. His disabilities contributed to frivolous spending and unnecessary money wasted..

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 want to start by saying that I have every sympathy for Mr M and the mental health struggles that he's facing.

We've set out our general approach to complaints about unaffordable/irresponsible lending - including the key rules, guidance and good industry practice - on our website. And I've referred to this when deciding Mr M's complaint.

Mr M's complaint centres on the fact that Nationwide will not write-off his debt, but as this service has an inquisitorial remit I will comment first on the original lending decision.

Nationwide needed to make sure that it didn't lend irresponsibly. In practice, what this means is Nationwide needed to carry out proportionate checks to be able to understand whether Mr M would be able to repay what he was being lent before providing any credit to him.

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.

Nationwide has told this service it gathered certain information prior to lending. It asked Mr M about his annual income and completed a credit check. As part of this it verified the income level Mr M had declared. It unfortunately cannot provide the results of the credit check it carried out due to a systems problem. But as Nationwide has already refunded the charges applied to Mr M's account (there was no interest charged) - which is what we would instruct it to do had I found the credit was not affordable - it is not an issue that I do not have the data to allow me to make a conclusive finding on the initial lending decision.

I will focus now on Mr M's core complaint point – should Nationwide write-off the debt?

I would start by saying that there is no evidence that Nationwide was made aware of Mr M's vulnerabilities when he applied, nor have I seen that there were any indications of a mental capacity limitation that it ought to have picked up on. So I cannot find it failed to treat him fairly in that regard at the time of application and so must now write-off the debt as Mr M argues.

Mr M obtained a Debt and Mental Health Evidence Form (DMHEF) in October 2023, so it is in this context I've considered whether it's still reasonable for Nationwide to continue asking for payment.

Financial businesses are required to follow the rules of the Financial Conduct Authority (FCA). The relevant rules and regulations are contained in the Consumer Credit Sourcebook (CONC).

CONC 7.2.2 says that customers with mental health difficulties or mental capacity limitations may fall in the category of particularly vulnerable customers. CONC 7.2.3 says that in developing procedures and policies for dealing with customers who may not have the mental capacity to make financial decisions, firms may wish to have regard to the principles outlined in the Money Advice Liaison Group (MALG) "Good Practice Awareness Guidelines for Consumers with Mental Health Problems and Debt".

The DMHEF confirms Mr M suffers from Asperger's, bipolar disorder and sleep apnoea and that he is on medication and his work is affected. But it does not give any additional details to suggest his mental health issues are such that his debt ought to be waived. The signatory of the form has said they cannot comment on Mr M's ability to manage money or communicate.

So I don't think this means that Nationwide is wrong not to write the debt off. Or that it shouldn't continue to ask Mr M to repay the capital balance outstanding. And logically it follows that I am not instructing it to amend his credit file in this respect. Equally, as I haven't seen anything to suggest Nationwide's original decision to lend wasn't a fair one, I don't consider it needs to amend Mr M's credit file as he argues.

Going forward, I would expect Nationwide to be mindful of the MALG guidance when it communicates with Mr M. I would also expect Nationwide to take account of any further information that Mr M may give it about his ability to repay the debt. It is now some time since it completed the income and expenditure assessment and his circumstances may have changed.

If Mr M is unhappy with the way that Nationwide treats him in the future, I don't see why he couldn't complain again. It's just that for now, I don't consider Nationwide treated Mr M unfairly when it refused to write off his capital balance that remains outstanding.

My final decision

I am not upholding Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 2 July 2024.

Rebecca Connelley
Ombudsman