

The complaint

Mrs W says Bank of Ireland (UK) Plc (BOI) irresponsibly lent to her.

What happened

Mrs W took out a loan for £21,000 over 84 months on 11 June 2021. The APR was 18.9% and the monthly repayments were £434.46. Mrs W says BOI did not take enough time to check her financial position and would not have lent to her had it done so. She was gambling at the time. Had BOI asked to see evidence of her income or bank statements it would have been obvious she was not in a position to take on such a large loan. She was very much caught in a cycle of lending and spending.

BOI says it completed proportionate checks that showed the loan would be affordable for Mrs W.

Our investigator upheld Mrs W's complaint saying BOI's lending decision was irresponsible.

BOI disagreed with this assessment saying it would be unreasonable to consider Mrs W's available credit that she has not used when assessing her application. And this loan was primarily used for debt consolidation.

I reached a different conclusion to the investigator so I issued a provisional decision. An extract follows and forms part of this final decision. I asked for any comments by 17 June 2024.

Extract from my provisional decision

BOI has told us it carried out an income and expenditure assessment when Mrs W applied for her loan. It used the income she declared, after adjusting it once verified, and modelled her likely outgoings based on national statistics. It completed a credit check to understand her credit commitments. It also asked about the purpose of the loan which was debt consolidation. These checks combined showed Mrs W was managing her active credit well and she would have £593 net disposable income each month after taking on this loan.

I am not persuaded that BOI's checks were proportionate given the value and term of the loan.

I have looked at Mrs W's bank statements for the three months prior to her application. 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. And having done so I think BOI could have fairly made the same lending decision had it completed a fuller financial review as would've been proportionate. I'll explain why.

The statements show Mrs W's income was higher than BOI used at around £2,800 a month. As Mrs W has confirmed to this service, they show she transferred around £1,000 each month to a joint account to cover housing and living costs. Her existing credit commitments totalled £963.55 (assuming a 5% repayment rate on her existing credit card balances). This

was a not insignificant portion of her income, but BOI knew the loan was for debt consolidation. And Mrs W's existing credit was well-managed and her credit utilisation on her cards was low at around 30%. The bank statements show no sign of financial strain – Mrs W was not reliant on an overdraft facility at any time of the month, she was not using payday loans, there were no returned direct debits. BOI would have seen Mrs W had taken out a loan for £13,000 in February but as this loan was for debt consolidation and would allow her to clear that, plus most of her revolving debt, I do not find that in itself was a reason not to lend. And furthermore the statements show she was saving £500 each month.

Mrs W says she had a gambling addiction, but I don't think this was evident from her March – May 2021 statements. I can see there were some national lottery transactions through the months and also payments to an online casino in late May 2021. But the spend was not of a value or frequency at this stage that I think BOI ought to have made a different decision. From Mrs W's June statement I can see the spend on gambling accelerated after this loan was given, and I am sorry Mrs W has struggled in this way, but I cannot fairly say this would have been foreseeable had BOI carried out better checks.

It follows I do not currently find BOI was wrong to lend to Mrs W.

If this is also my final decision I would remind BOI of its obligation to treat Mrs W fairly and with forbearance if her current circumstances mean she needs a reduced repayment plan. I can see it previously offered a 12-month plan but Mrs W did not take up this offer.

Both parties replied to my provisional decision. BOI said it had no further comments to add. Mrs W disagreed with my findings and said, in summary:

- At the time of the loan application, she had five credit cards, two online shopping accounts and had taken out a £13,000 loan just three months before. This was supposed to be for debt consolidation but was not fully used for that purpose. She had also been approved for a credit card with a £7,200 limit in April 2021. So BOI's checks were not proportionate or reasonable, particularly given the value and term of the loan.
- Her monthly credit commitments should have prompted further investigation. Whilst she appreciates there is no set checklist a lender has to complete, given the loan and credit card just prior to her application, an option would have been to ask for a copy of her bank statements.
- The loan was for £21,000, but her overall debt was higher. This loan was neither in her best interests nor affordable.
- Whilst she had used her recent debt consolidation loan in part to settle debts, her balances on one credit card and two home shopping accounts had then increased again. She had a history of clearing and restarting credit.
- Her bank statements also show numerous uses of buy now pay later plans which should have been another cause for concern.
- In regards to the gambling transactions, in January she spent £120, in February £90 and in March £110 on the national lottery, often making these transactions on the same day. Her May statement shows she started to use online casino games, and again multiple transactions in the one day. There was over £400 sent to one of these apps and this was the month prior to her application. By this stage she was already using the 'winnings' that month to get by.
- With regards her salary, when she applied she was receiving overtime as she was covering for a member of staff who was on long term sickness. Her normal take home salary was in fact around £2,500. She sent in payslips from June to August 2021 that show this. She accepted this drop may not be taken into consideration, but

wanted to highlight the difference between her salary when the application was approved and then for the term of the loan.

- She was only able to save due to the earlier loan and she was constantly transferring money back and forth from her savings account to cover her monthly outgoings.
- Finally, the fact she had to call BOI six months into a seven-year loan agreement is another indicator that the loan was unaffordable. She has no recollection of being offered a 12-month payment plan on that call and can't see why she wouldn't have accepted it.

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.

Our approach to complaints about irresponsible lending is set out on our website and I have taken it into account here.

I have reviewed all of the comments Mrs W made in response to my provisional decision carefully but they have not changed my conclusion. I will explain why. In keeping with our role as in informal dispute resolution service, and as our rules allow, I will focus on the issues I find to be material to the outcome of her complaint.

Mrs W set out why she feels BOI's checks were not proportionate. But I made this finding (as seen in the extract above) noting that given the term and value the loan a fuller financial review ought to have been carried out. I also observed that Mrs W was already spending around a third of her income on credit further reinforcing the need for better checks.

However, after reviewing her bank statements I could not fairly conclude that if BOI had carried out better checks it ought to have made a different lending decision. And I remain of that view. As I said in the provisional decision her statements did not show any of the typical signs of financial difficulties, such a reliance on an overdraft, use of payday loans, or returned direct debits. Mrs W references the buy now pay later plans she was using but such products can be used for a range of reasons and need not automatically be a red flag.

The loan was for debt consolidation. Having looked at the credit check, it's clear that BOI knew Mrs W had some existing debts. And the information from the time shows that the loan purpose was declared as debt consolidation. Mrs W argues she had tried this before but failed. But BOI couldn't know whether Mrs W would go on to consolidate the bulk of her debts into this loan. However, it could only make a reasonable decision based on the information it had available at the time. It won't have known whether Mrs W would actually pay off her existing balances – all it could do was take reasonable steps and rely the declared purpose from Mrs W that this would be done with the funds from this loan. So I'm satisfied that the proceeds of this loan could and should have been used to reduce some of Mrs W's existing balances, as to an extent they were.

As this was a first loan BOI was arranging for Mrs W, it didn't have knowledge of the history of Mrs W obtaining funds and then failing to consolidate debts, or doing so but then quickly rebuilding the debt, that she describes. BOI's credit check did not show this level of detail, in the way Mrs W's full file that she can see would. And I can only reasonably expect it to respond to the results its credit check returned. So I think BOI was reasonably entitled to believe that Mrs W would be left in a better position after being provided with this loan.

I addressed the gambling spend in my provisional decision and my opinion has not changed. At the stage Mrs W applied it was not at such a level (taking the prior three months' monthly average) that I think it ought to have led to a different decision had BOI been aware.

Mrs W also explained that her salary was temporarily inflated when she applied. But unless she had disclosed this to BOI it is neither fair nor reasonable to expect it to have taken this into account.

Finally, I note Mrs W does not recall being offered a 12-month plan when she rang BOI in December 2021. I have not listened to the call but have no reason to doubt BOI's written testimony. And my decision about the affordability of the loan – which is what Mrs W has complained about – does not turn on this issue. I disagree with Mrs W's argument that the fact she had to call in only six months into the loan term shows it was unaffordable. The lender's notes show she called as her circumstances had changed – her partner's business was impacted by COVID-19 and so she had to help with his share of the bills. This was not something I would expect BOI to have anticipated at the point of lending.

It follows for the reasons set out in my provisional decision and expanded on above, I do not find BOI was wrong to lend to Mrs W at the time it did.

I know Mrs W will be disappointed and but I hope she will be able to better understand the reasoning now. To be clear, I do not doubt her testimony that she went on to have financial difficulties and that her gambling became problematic – rather I find that better checks would most likely not have shown that to be the case when she applied. I hope Mrs W now has the support she needs. If not, Mrs W could contact Step Change on 0800 138 1111 or National Debtline on 0808 808 4000 for advice about financial difficulties. And if she needs help to manage her gambling she could contact GamCare on 0808 802 0133.

This brings to an end what we can do in relation to this complaint.

My final decision

I am not upholding Mrs W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 16 July 2024.

Rebecca Connelley
Ombudsman