DRN-4895769

The complaint

Mr M complains that Nationwide Building Society irresponsibly lent to him.

What happened

Mr M was approved for a Nationwide personal loan in June 2019 for £17,307.90. Due to Mr M requesting breathing space on the personal loan during the Covid lockdown, Nationwide completed a payment deferral rewrite in January 2021, which created a new loan for £12,537.85, which was necessary to get all such loans active again. This settled the previous loan. Mr M says the lending on these loans was irresponsible and he was suffering from mental health issues. Mr M made a complaint to Nationwide.

Nationwide did not uphold Mr M's complaint. They said an affordability assessment was performed and based on his monthly income, household expenditure, outgoings, and monthly payments for his existing financial commitments. They said the loan was deemed affordable. Nationwide said a manual intervention and manual assessment were performed, and manual income proofs were requested from Mr M. They said credit checks were performed and data from credit reference agencies (CRA's) were used in the risk assessment. Mr M brought his complaint to our service.

Our investigator upheld Mr M's complaint. She said Nationwide didn't complete proportionate checks as Mr M had been struggling to meet his previous repayment of £225 a month to Nationwide, where a previous loan had been in and out of arrears since July 2018, and where he had a returned direct debit for his payment as late as April 2019. She said Nationwide's system notes indicated this had been due to a family bereavement in 2018, but Mr M had also expressed he was struggling to keep up with his bills. She said the arrears on the previous loan were only cleared days prior to the June 2019 loan application.

Our investigator said that proportionate checks, such as Nationwide checking Mr M's bank statements (as he banked with them), would have shown 117 transactions to gambling companies based on the payment description on his May-June 2019 statement. The total of these transactions were for £6,957 – which was more than Nationwide had calculated as his disposable income. She said 41 of these were on 3 June 2019. She said Nationwide should not have approved this loan application, and as the rewrite was a continuation of the June 2019 loan, then her findings applied to the rewrite also.

Nationwide asked for an ombudsman to review the complaint. They made a number of points. In summary, they said given the number of personal loan applications they receive on a daily basis, it simply wouldn't be possible to undertake manual checks on each application. Instead, they operate a sophisticated automated application checking system which verifies an applicant's income, their credit commitments and reviews any adverse/negative credit file insertions from the respective bureaus. They said it would be unfair, impractical and not in the spirit of the regulations to complete manual checks on an application such as Mr M's application without any trigger to do so, based on the information he provided.

Nationwide said they used live bureau data to verify Mr M's income and modelling in expenditure, including outstanding credit commitments. They said Mr M had a Disposable

Monthly Income (DMI) of £2,418.84, which was an exceptionally high DMI for an application and these loans were absolutely affordable. Nationwide said Mr M experienced problems in repaying the latest loan because of poor financial and transaction choices, which they couldn't have predicted at the point of application.

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.

Before agreeing to approve the credit for Mr M, Nationwide needed to make proportionate checks to determine whether the lending was affordable and sustainable for him. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances.

I've looked at what checks Nationwide said they did when initially approving Mr M's application in June 2019. Nationwide said they took information from Mr M, and information from the CRA's. The checks showed that Mr M had declared a net monthly income of £4,121. He had unsecured debt of £37,248, which £11,242 of this was from credit card balances. Their checks did not show any defaults of County Court Judgements being registered on his credit file. And Mr M told Nationwide that he was living with his parents.

Part of the loan Mr M applied for, was to pay off a Nationwide loan that he was approved for in December 2017. So Nationwide would have data of how that loan was managed also. They had calculated his DMI as £2,418.84.

I'm not persuaded that Nationwide's checks were proportionate for the June 2019 loan they approved. I say this as Mr M had a high proportion of unsecured debt compared to his declared net monthly income £37,248 compared to the (£4,121 x12) £49,452 net salary he declared. This was slightly over 75%. As some of the loan didn't appear to be for debt consolidation, then this figure would be higher after the loan was approved.

Since the last loan that Mr M was approved for, in December 2017 (around 18 months prior to the June 2019 loan), Mr M's unsecured debt had nearly trebled from £13,750 to £37,248. When Mr M was approved for his previous loan in December 2017, Nationwide's checks showed he had £16 of credit card balances, whereas the June 2019 checks showed he had £11,242 of credit card balances. This shows that Mr M had relied on a lot more credit in only 18 months, which could be a sign of financial difficulty, or him using debt to repay debt.

In the time between Nationwide's December 2017 checks and the June 2019 checks, Mr M's declared net income had risen from £2,700 to £4,121 which was quite high for a short period of time passing. So it's not clear how Mr M's debt was substantially increasing if Nationwide's calculation of his DMI was accurate.

Nationwide's checks show for the June 2019 loan that "*Income check required (self-employed/No Data)*". So whereas Nationwide has told us about their manual automated process, they did require a manual check here. So I asked Nationwide what manual checks they did.

Nationwide told me that they wouldn't have included a manual review of the transactional data on Mr M's bank account as this wouldn't be a reasonable or proportionate check to verify an income. They said in this case, their underwriters would have confirmed either payslips or a tax return from Mr M to verify his income and given that Mr M's Nationwide account wasn't salary fed there would be no prompt to review his account as part of a manual check.

Nationwide did not include any evidence of any payslips or tax returns from Mr M. The case history for the loan does not show that Mr M provided any of these. On the balance of probabilities, I'm not persuaded that Mr M did provide payslips or a tax return, and even if he did, they were unlikely to support the figures he told Nationwide he earned.

I say this because Nationwide's system notes on 9 May 2019 show Mr M told Nationwide he had started a job and he didn't know his income. It's not clear why Mr M's contract wouldn't show his earnings, but given that he had just started a new job, it's unlikely he would already have had payslips to provide to Nationwide.

In addition to this, as the December 2017 checks showed Mr M had a much lower salary, it's unlikely that a tax return from the 2018-2019 tax year would have shown the salary he told Nationwide about, if the tax calculation was even available so soon after the tax year had concluded.

Nationwide's checks also showed that they needed to perform manual interventions due to personal details Mr M included on his application, and that a notice of correction was recorded on Mr M's credit file. So again, Mr M's application wasn't automatically accepted, and manual intervention was needed.

Nationwide would have been aware from their own system that they had previously reported arrears to the CRA's on Mr M's December 2017 loan. The repayment for this loan was £255.96 a month, as opposed to the £611.25 a month repayment for the new June 2019 loan. They should have been aware that £255.96 monthly repayment was returned unpaid in April 2019 – just two months before the new loan. This should have prompted Nationwide to make further checks about the affordability.

If Nationwide would have looked at how Mr M had been managing his existing loan, they would have been able to see multiple payments had been missed and he had been in arrears, which could indicate he was in financial difficulty, and didn't have a large DMI as Nationwide thought he did.

Whilst the system notes from his December 2017 loan show that Mr M had suffered a bereavement, which was cited as the reason for the arrears, Nationwide's notes first appear to mention funeral costs in July 2018, nearly a year prior to the June 2019 loan. The notes show he had already missed a payment in June 2018 due to changing pay and unexpected expenses. By July 2018 he was £451.92 in arrears. A note in June 2019 references the bereavement again for the arrears *"which impacted his ability to do his finances*".

In June 2019, Mr M was still in arrears on his personal loan. He settled this only days before he took out his new loan. Based on the note about the bereavement impacting Mr M to do his finances, it appears that Mr M was still struggling with the loss of a close family member in June 2019, the same month he was approved for the new loan.

So based on all of these factors, I'm persuaded it would have been proportionate for Nationwide to make further checks to ensure Mr M would be able to afford a new loan repayment which was nearly treble the monthly payment he would have been struggling with.

Nationwide already had data of a bank account with themselves in Mr M's name. So they should have been aware that in the months leading up to the June 2019 loan, he had exceeded his £500 overdraft on multiple occasions, which would indicate he was suffering from financial difficulties if he was already in arrears with his loan, and he couldn't stay within a £500 overdraft limit.

So if Nationwide would have looked at Mr M's account activity with them as part of a proportionate check, based on them having to make manual interventions and the data they held on him already, and the data they had showing financial difficulties on his existing loan and him exceeding his overdraft on multiple occasions, then they would have been able to see the numerous gambling transactions which were highlighted by our investigator.

It would have been apparent to Nationwide that Mr M was gambling in excess of what they thought his DMI was, and this was often causing him to exceed his arranged overdraft. So I'm not persuaded by what Nationwide have said that they couldn't have predicted he would have made these choices, when there was clear evidence he had been doing this for a number of months leading up to the approval of the June 2019 loan. I'm satisfied that the aforementioned triggers should have prompted Nationwide to make further checks.

If further checks had been made, I'm not persuaded they would have approved Mr M's application for the June 2019 loan despite what the DMI checks had modelled for him. I say this based on the substantial increase to his unsecured debt leading up to June 2019, his frequent financial difficulties in repaying his existing loan with Nationwide, the likely lack of evidence of the manual proof of income (despite Nationwide's system checks requiring this), him exceeding his arranged overdraft frequently, and the numerous gambling transactions on his account.

So I'm not persuaded that Nationwide completed proportionate checks based on the individual circumstances documented here. And so I'm not persuaded that Nationwide made a fair lending decision in approving the personal loan for Mr M in June 2019 based on the reasons given above.

As the loan in January 2021 was a payment deferral rewrite after Mr M had taken a breathing space due to the pandemic, the January 2021 loan was effectively a continuation of the June 2019 loan. So as I'm not persuaded that a fair lending decision was made for the June 2019 loan, the January 2021 re-write for the June 2019 loan wouldn't have happened if the June 2019 loan wouldn't have been approved. So as Nationwide have confirmed the payment holiday rewrite was joint to the original account at the bureau, so it wouldn't impact the credit file, I'm persuaded the redress set out below should apply to both loans,

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed at the end of this decision results in fair compensation for Mr M in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right

Our investigator has suggested that Nationwide takes the actions detailed below, which I think is reasonable in the circumstances.

My final decision

I uphold this complaint. Nationwide Building Society should take the following actions on both the June 2019, and January 2021 loans they approved for Mr M:

Rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied;

If the rework results in a credit balance, this should be refunded to Mr M along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. Nationwide Building Society should also remove all adverse information regarding this account from his credit file;

Or, if after the rework there is still an outstanding balance, Nationwide Building Society should arrange an affordable repayment plan with Mr M for the remaining amount. Once Mr M has cleared the balance, any adverse information in relation to the account should be removed from his credit file.

*If Nationwide Building Society consider that they are required by HM Revenue & Customs to deduct income tax from that interest, they should tell Mr M how much they've taken off. They should also give Mr M a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 20 September 2024.

Gregory Sloanes
Ombudsman