

The complaint

Mrs G complains that Marks and Spencer Financial Services Plc (MSFS) lent to her irresponsibly.

What happened

In October 2006 Mrs G applied for a credit card with MSFS. The application was accepted and Mrs G was given a credit card with an initial credit limit of £6000. The credit limit was increased to £8000 in 2007 and to £9600 in 2008.

In 2013 Mrs G contacted MSFS and advised them that she was experiencing financial difficulties and that she had entered a debt management plan with StepChange.

The account was defaulted on 13 September 2013 and was sold to a third party on 5 June 2023.

Mrs G complained to MSFS. She said they had lent to her irresponsibly because they hadn't carried out the necessary checks to ensure that the credit was affordable.

MSFS didn't uphold the complaint. It said it had carried out proportionate checks and had found the credit to be affordable.

Mrs G remained unhappy and brought her complaint to this service.

Our investigator didn't uphold the complaint. They said that because of the lack of information due to passage of time, they were unable to say whether MSFS carried out proportionate checks and made a fair lending decision. The investigator said that because Mrs G wasn't able to provide bank statements from the time she took out the card, or from the time of the first and second credit limit increase, there was a lack of information about her income and expenditure at those times and therefore it wasn't possible to assess whether the lending was affordable for Mrs G.

Mrs G didn't agree so I've been asked to review the complaint.

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 unaffordable and irresponsible lending including the relevant rules, guidance and good industry practice are set out on our website.

MSFS needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice, this means it should have carried out proportionate checks to make sure Mrs G could afford to repay what he was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amount and the customers income and expenditure. There's no set list of checks that a lender has to carry out, but the checks need to be borrower focussed. So, we'd expect to

see checks like income and expenditure and a credit check.

In this case, because the account opening was many years ago, MSFS has told this service that it no longer holds the information it gathered from the checks it carried out. MSFS has said that it would've carried out an affordability check and a credit check when the account was opened, but it no longer has the details from Mrs G's credit file which it used to assess her application.

Because of the lack of information, I'm unable to say whether MSFS carried out proportionate checks and made a fair decision to lend to Mrs G when it approved the card with a credit limit of £6000.

I've gone on to consider the credit limit increase which took place in 2007 and 2008. Because the credit limit increases were many years ago. MSFS no longer hold the information it gathered from the checks it carried out. MSFS has said that it carried out an affordability check prior to each credit limit increase, but it no longer has the details from Mrs G's credit file which it used to assess whether the credit limit increase was affordable.

Because of the lack of information, I'm unable to say whether MSFS carried out proportionate checks and made fair lending decisions when it increased the credit limit.

Because MSFS no longer has any information about what its checks showed about Mrs G's financial circumstances at the time the card was taken out and at the time of the credit limit increases, this service asked Mrs G to provide copies of her bank statements from this time. This information would've been helpful in deciding whether the credit was affordable for Mrs G, and consequently whether the lending decision was fair.

Mrs G hasn't been able to provide any statements. She recalled that her salary at the time was around £17,300 and that she had outgoings which included a joint mortgage of around £724 and a car payment of around £224. Mrs G said she was making payments on other credit cards/store cards and that she was having to pay for full time childcare.

I'm grateful to Mrs G for providing this information. However, without more information such as bank statements, I don't have enough evidence on which to reach a conclusion as to whether the lending was sustainably affordable or not.

In these circumstances, I'm unable to fairly conclude that MSFS lent irresponsibly when it provided the credit card and increased the credit limit.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 4 September 2024.

Emma Davy
Ombudsman