

The complaint

Miss K says Sainsbury's Bank Plc irresponsibly lent to her.

What happened

Miss K opened a credit card account with Sainsbury's Bank in March 2020. She was given a credit limit of £3,000. This was increased to £4,200 in June 2022. The account defaulted in October 2023.

Miss K says she should never have been allowed to open an account with such a large credit limit. She had other debts at the time and was only receiving a low income. And her credit limit should never have been increased. She was only making minimum payments and had missed two payments. Her credit limit should have been reduced at this point as better checks would have showed she was struggling.

Sainsbury's Bank says it completed proportionate checks that showed the credit was affordable.

Our investigator upheld Miss K's complaint. He said Sainsbury's Bank checks were not proportionate and better checks would have shown the credit would most likely not be sustainably affordable for Miss K.

Sainsbury's Bank disagreed with this assessment and asked for an ombudsman's review. It said, in summary:

- There were no signs of financial difficulty from Miss K's credit check.
- She had a very adequate disposable income of £770 each month so the maximum minimum repayment was easily affordable.
- A credit limit of £3000 on an income of £21,000 is not high and Miss K only had a total unsecured debt balance of £4,250 prior to her application.
- It does not have a view of a customer's bank accounts, and it wouldn't be appropriate for it to ask each and every customer for statements prior to an application being approved.

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've had regard to the regulator's rules and guidance on responsible lending (set out in its consumer credit handbook – CONC) which lenders, such as Sainsbury's Bank, need to follow. Sainsbury's Bank will be aware of these, and our approach to this type of lending is set out on our website, so I won't refer to the regulations in detail here but will summarise them.

Before entering into a credit agreement, Sainsbury's Bank needed to check that Miss K could afford to repay the credit out of her usual means, within a reasonable period of time,

without having to borrow further and without experiencing financial difficulty or other adverse consequences. The checks needed to be proportionate to the nature of the credit, for example the amount offered, and to Miss K's particular circumstances, and Sainsbury's had to pay proper regard to the outcome of the assessment with regard to affordability risk. Ultimately, Sainsbury's Bank needed to treat Miss K fairly and take full account of her interests when making its lending decisions.

With this in mind, my considerations are did Sainsbury's Bank complete reasonable and proportionate checks when it first opened the account for Miss K and when it increased her credit limit to satisfy itself that she would be able to repay the credit offered within a reasonable period of time? If it didn't do this, what would reasonable and proportionate checks have shown? Did Sainsbury's Bank make fair lending decisions? And did it treat Miss K unfairly in some other way?

Sainsbury's Bank provided the information it relied on which included Miss K's application form, information from the credit reference agencies, account statements and a summary history showing the account balance.

Account opening and initial limit of £3,000

Miss K declared a gross annual income of £21,000 and the lender's credit check showed she had unsecured debts of £4,250 and a mortgage. It says there was no adverse data on her file. It calculated she would have £770 monthly disposable income after taking into account her mortgage repayments of £420 plus the cost of her existing credit commitment and living expenses.

But I am not satisfied these checks were proportionate given the limit that was offered relative to Miss K's income. I think the income and fixed outgoings needed to be verified in some way so Sainsbury's Bank had the assurances it needed that its lending would not be financially harmful to Miss K.

In cases like this we look at bank statements from the three months prior to application. I am not saying Sainsbury's Bank had to do exactly this but it is a reliable way for me to understand what proportionate checks would most likely have shown. And I think Sainsbury's Bank, as a responsible lender, would have made a different lending decision had it completed better checks. I say this as the statements show Miss K's finances were not stable - she was persistently reliant on an overdraft facility and was gambling frequently. So in these circumstances, I think the lender would have concluded that its credit card would most likely not be sustainably affordable for Miss K.

Credit limit increase to £4,200

At this stage Sainsbury's Bank reviewed how Miss K was managing the account and ran a new credit check. But I would have expected Sainsbury's Bank to also review – and verify - income and expenditure figures given the value of the limit and the time since application.

And from looking at Miss K's bank statements as a proxy for proportionate checks, I think this would have led to a different lending decision. Miss K was still struggling to manage her finances such that Sainsbury's Bank would have been able to anticipate that offering any further credit would most likely be harmful.

It follows I find Sainsbury's Bank should not have lent to Miss K.

I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below

results in fair compensation for Miss K in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right

As I don't think Sainsbury's Bank ought to have opened the account, I don't think it's fair for it to be able to charge any interest or charges under the credit agreement. But I think Miss K should pay back the capital amount she had the use of. Therefore, Sainsbury's Bank should:

- 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 Miss K along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. Sainsbury's Bank should also remove all adverse information regarding this account from Miss K's credit file.
- Or, if after the rework there is still an outstanding balance, Sainsbury's Bank should arrange an affordable repayment plan with Miss K for the remaining amount. Once Miss K has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

If Sainsbury's Bank has sold the debt to a third party, it should arrange to either buy back the debt from the third party or liaise with them to ensure the redress set out above is carried out promptly.

*HM Revenue & Customs requires Sainsbury's Bank to deduct tax from any award of interest. It must give Miss K a certificate showing how much tax has been taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

My final decision

I am upholding Miss K's complaint. Sainsbury's Bank Plc must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 17 September 2024.

Rebecca Connelley
Ombudsman