

The complaint

Mr W says Sainsbury's Bank Plc irresponsibly lent to him

What happened

Mr W took out a loan for £5,000 in May 2023. It was repayable in 46 monthly payments of £134.43. He says the loan was used to fund his gambling addiction, he did not have the mental capacity at the time and the loan has caused financial detriment. Sainsbury's Bank should have looked into his circumstances more and his bank accounts at the time.

Sainsbury's Bank says it carried out proportionate checks that showed the loan would be affordable.

Our investigator upheld Mr W's complaint. She said better checks were needed and these would have shown Mr W's gambling was problematic.

Sainsbury's Bank disagreed and asked for an ombudsman's review. It said its checks were proportionate for a £5,000 loan. The credit check showed no adverse data and the affordability assessment showed Mr W would have £1,112 of disposable income each month. Whilst it understands Mr W had a gambling addiction and while it sympathises, it does not agree it should have asked for statements prior to approving the loan based on the information provided to it, or the loan amount.

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 and new evidence by 8 October 2024.

Extract from my provisional decision

I can see Sainsbury's Bank asked for certain information before lending. This included Mr W's monthly income (£2,149), the purpose of the loan (car/bike), his housing costs (£270), his marital/residential status (living with partner) and if he had dependants (no). It estimated his living costs based on this information (£453). It carried out a credit check to understand Mr W's existing credit commitments (£179) and repayment history. Based on these checks combined and after adding a buffer, it calculated Mr W had £1,112 of monthly disposable income and so could afford to take on this loan.

I'm not wholly satisfied these checks were proportionate. I think Sainsbury's Bank ought to have verified Mr W's income given the term of the loan and the regulatory guidance in CONC 5.2.16(G) that states it is not generally sufficient to rely solely on a statement of current income made by the customer without independent evidence. However, unlike the investigator, I do not think it needed to carry out a full review of Mr W's finances using his bank statements. I say this as the loan seemed affordable on a pounds and pence basis and Mr W was not over indebted (£9,350) and there were no signs of financial pressure on his credit file.

Had Sainsbury's Bank verified Mr W's income it would have learnt over the three months

prior to application it averaged £2,107.07 – so very close to what he had declared. And so Sainsbury's Bank could fairly have made the same lending decision.

It follows I don't think Sainsbury's Bank was wrong to lend to Mr W.

I am sorry Mr W has struggled with his finances and problematic gambling – but in the circumstances of this case I do not find it would have been proportionate for Sainsbury's Bank to carry out the depth of review needed to discover this. I hope he now has the support he needs. If not, he could contact Step Change on 0800 138 1111 or National Debtline on 0808 808 4000 for advice about financial difficulties. And if gambling is still problematic for him he could contact GamCare on 0808 802 0133.

If Mr W still has an outstanding balance on his loan, I would urge him to contact Sainsbury's Bank to discuss an affordable repayment plan once I reach a final decision. I would remind Sainsbury's Bank of its obligation to treat Mr W fairly, and with forbearance.

Finally, I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Sainsbury's Bank lent irresponsibly to Mr W or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

Both parties responded by the deadline. Sainsbury's Bank agreed with my conclusion. Mr W didn't, and asked for the decision to be reconsidered.

He said, in summary, he underestimated his expenditure with Sainsbury's Bank in order to receive this loan. He had lost a lot of money gambling and was just chasing his losses with this loan. The fact he took a loan out for a car/bike when he didn't have a driving license should have raised suspicion, and the fact he had spent £10,000 received from another lender should have been looked into. His bank records and history would have clearly shown that this money was spent in quick succession for gambling. He used multiple bank accounts to continue gambling and this has not been looked into. Also, his salary was commission dependent and fluctuated. He fails to see why I do not feel that Sainsbury's Bank should have carried out proportionate checks in his case. If it had looked at his bank accounts it would not have lent to him as he was high risk.

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 considering complaints about unaffordable and irresponsible lending is set out on our website, and I've taken this into account here.

I have thought carefully about Mr W's response to my provisional decision. But my decision remains the same, I'll explain why.

Mr W asks why I do not feel the bank needed to carry out proportionate checks. But I do, that is not in dispute. What this complaint turns on is what proportionate checks looked like for this lending decision. Mr W argues if the bank had reviewed his full financial history it would not have lent to him. And I don't disagree. But my finding is that this level of checks would not have been proportionate given the loan value and what the initial checks showed. It seemed Mr W had ample disposable income, he was not over indebted and the credit check did not show signs of financial strain. I do not agree it would have been proportionate to ask for bank statements in these circumstances.

As I explained I did think Mr W's income ought to have been verified. But I don't think this would have led to a different lending decision as the actuals were very close to what Mr W had declared. He also says he understated costs but the bank used modelled averages to estimate his living costs, and it is reasonable for it to have relied on the housing costs he declared in this case.

Mr W explained his salary fluctuated but I find reviewing the prior three months would have been a reasonable check. So unless he opted to declare this I cannot see that Sainsbury's Bank would have been expected to know this.

Mr W raised that he did not have a driving licence so the loan purpose ought to have triggered concerns. But the bank would not have known this, and it would not have been proportionate for it to carry out the level of checks needed to discover this.

It follows I remain of the view that whilst Sainsbury's Bank ought to have verified Mr W's income it could fairly have made the same lending decision had it done so.

My final decision

I am not upholding Mr W's complaint..

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 November 2024.

Rebecca Connelley
Ombudsman