

## The complaint

Ms D complains Brent Shrine Credit Union Limited trading as My Community Bank (MCB) approved her with three unaffordable loans. Ms D has also complained about MCB's support when she made it aware of financial difficulties.

## What happened

Ms D was provided with the following loans by MCB:

Loan	Date of loan	Capital amount	Term (months)	Monthly repayments	Total repayable value
Loan 1	November 2020	£3,000	24	£155 (approx.)	£3,800 (approx.)
Loan 2	February 2022	£10,000	36	£382 (approx.)	£14,100 (approx.)
Loan 3	February 2023	£15,600 (approx.)	60	£430 (approx.)	£26,300 (approx.)

In 2024 Ms D complained to MCB saying it had irresponsibly provided her with these three loans. She said had it completed reasonable checks into her affordability that it should have identified these loans were unaffordable for her.

MCB didn't uphold Ms D's complaint. It said its completed creditworthiness and affordability checks which identified the loans were affordable for Ms D. As such it didn't agree that it had made unfair lending decisions. MCB did identify some service failings when reviewing how it had communicated with Ms D when she made it aware of her financial difficulties. In recognition of this it offered Ms D £100.

Unhappy with MCB's response Ms D referred her complaint to our Service.

I recently issued a provisional decision when I set out, with reasons, my initial thoughts on this case and what I was intending to decide.

The below is an extract from my provisional decision:

*"We've set out our approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website.*

*At the time MCB provided these loans it needed to take reasonable steps to ensure they were affordable and sustainable for Ms D. There isn't a set list of checks MCB needed to conduct, but we'd expect the checks to be proportionate to the terms of lending being provided. In practice this means we generally consider a lender's checks need to be less thorough at the early stages of a lending relationship – in terms of the information it obtains and looks to verify to reach its decisions. But the longer the lending relationship exists, or if the level of borrowing is relatively high, or the borrower's income is relatively low, for example, then there's a higher risk of the lending being unaffordable or unsustainable; so*

*we'd expect more detailed checks from the lender for it to be able to evidence it didn't lend to a customer irresponsibly.*

*I've used this approach to help me decide this complaint and I've set out my findings below under separate headings for ease.*

### Loan 1

*MCB says it verified Ms D's declared income using the information it obtained via open banking; and used Office of National Statistics (ONS) data to reasonably understand her expenditure. MCB says it also completed a credit check to identify Ms D's current credit commitments and her management of credit.*

*MCB considers its checks were reasonable to the terms of lending being provided and the information it had obtained about Ms D's financial circumstances; and that it went on to make a fair lending decision when providing this loan.*

*I've carefully considered the evidence available to me; and having done so I'm persuaded MCB's checks were reasonable, and that it went on to make a fair lending decision.*

*MCB hasn't been able to provide our service with the results of the income and expenditure assessment it conducted, although it has provided the results of the credit check it obtained. As such our investigator said he couldn't conclude MCB's checks were reasonable, given he hadn't been provided with the evidence behind its checks. In response to our investigator's view MCB says it provided these details; but these don't appear to have been received.*

*However, I don't consider I need sight of these details in the circumstances. I say this because MCB obtained three months' worth of Ms D's bank account data through open banking. As such it had evidence of Ms D's actual income and expenditure in the three months leading up to this loan.*

*Therefore, I consider the checks MCB completed were reasonable. I say this because by obtaining the open banking data MCB had information available to it which evidenced Ms D's financial circumstances, meaning its assessments could be completed with verified information about her actual income and expenditure, rather than it relying on industry averages or reasonable estimations, for example. So, even though it appears MCB only used the open banking data to verify Ms D's income, and didn't use it to understand her expenditure, it did have this information available to it.*

*As I consider MCB completed reasonable checks by obtaining the open banking data, I've gone on to consider if it made a fair lending decision based on the information it had available to it.*

*Ms D's income across the three months leading up to this loan was consistent at around £4,150. The information within the open banking data reasonably supports her declared annual income. Ms D also appears to receive a regular monthly credit from an individual into her account of £1,000. There are several non-discretionary items evidenced within the transactions: payments to mortgages, council tax, utilities, and insurances. These total around £1,450.*

*The results of the credit check MCB completed identified a number of active credit accounts in Ms D's name, with outstanding balances, excluding mortgages, totalling just over £22,000. The credit check suggests all of these accounts had been active for at least 12 months and were being maintained well. There are no signs to suggest possible financial difficulties, such as bankruptcy, CCJs, missed payments or payment arrangements.*

*There are monthly payments to existing credit commitments also evident within the open banking data, totalling on average across the three months at around £1,950; which is a relatively high level of monthly repayment towards credit in relation to Ms D's evidenced income. But the majority of Ms D's debt was made up of revolving credit, around £14,000. So, I think it would have been reasonable for MCB to have concluded Ms D was making more than minimum payments towards some lines of credit, and that her minimum repayment towards credit would be lower than this.*

*The evidenced income and expenditure information available to MCB suggests Ms D would be left with a reasonable level of disposable income each month to repay this loan and cover other monthly living costs.*

*Taking all of this into account, as well as this being the first lending relationship with MCB, and that Ms D's credit file and open banking data suggested she was managing her existing lines of credit well; I don't consider there was anything within the information MCB obtained that ought to have caused it concern.*

*It therefore follows I consider MCB made a fair lending decision when providing Ms D with loan one.*

### Loans 2 and 3

*At loan two and three MCB has said it verified Ms D's income by way of a credit tool check. It says it again used ONS data to reasonably understand Ms D's non-discretionary expenditure, and it completed a new credit check at each lending event.*

*MCB says it's satisfied it completed reasonable checks and made fair lending decisions when providing both loans.*

*Thinking about loan two first, I've reviewed the information MCB has provided; but I'm not persuaded its checks were reasonable in this instance, or that it went on to make a fair lending decision when providing this loan.*

*I say this because while MCB says it was satisfied with the information it obtained about Ms D's income and expenditure, there was information within the credit check that I consider ought reasonably to have been of concern.*

*The credit check results showed MCB that Ms D's reliance on credit had significantly increased since loan one was provided, only 15 months earlier. Ms D's total outstanding debt excluding mortgages had increased from just over £22,000 to around £39,000. Given loan one's purpose was detailed as debt consolidation, had it been used as such then Ms D would have taken on around a further £17,000 in additional debt across this relatively short space of time. Ms D had also missed two consecutive payments to a credit card in the four months leading up to this loan; and had been two months in arrears on that account before it was brought up to date.*

*The purpose declared for loan two was again debt consolidation, possibly suggesting that the previous consolidation hadn't been effective, although I acknowledge loan one was for a lower value.*

*MCB doesn't appear to have been overly concerned with the information it identified within the credit check. While individually the changes may not necessarily require a more detailed review, I consider collectively they ought to have raised concerns.*

*I say this because I consider the information suggests Ms D was becoming more reliant on credit; and was showing signs of financial stress. Given this I consider MCB should have completed more detailed checks, to obtain a full understanding of Ms D's actual financial position, by verifying her expenditure, as well as her income as it reasonably did, to ensure she could sustainably afford to repay this loan.*

*Ms D has provided us with her bank statements covering the three months leading up to loan two. In the absence of any other conflicting information, I consider these allow me to reasonably understand what more detailed checks would likely have shown MCB at the time.*

*The statements show Ms D's income varied with an average of around £4,050 per month. Ms D also continues to receive a regular £1,000 credit from another individual each month.*

*Her non-discretionary expenses are evidenced with payments to commitments such as mortgages, council tax, utilities, and insurances. These average around £1,500 per month.*

*Ms D's payments to existing credit commitments averaged around £4,500 per month, although again I think it's fair to say this was likely more than the minimum payments required. I say this because MCB identified through its checks that Ms D had around £14,000 in revolving credit. So, loan two with a purpose of debt consolidation wouldn't have been enough to have cleared all of Ms D's outstanding revolving credit (which would more likely than not have been the most beneficial choice to consolidate given the higher interest rates). As such, Ms D would still have needed to make payment to around £4,000 of revolving debt each month, her existing non-revolving debts, and repayment to this loan.*

*Having reviewed Ms D's bank statements and taking an average across the three months leading up to this loan, Ms D's monthly repayments to her non-revolving debt, excluding mortgages, totalled around £1,500. Repayments at 5% for the £4,000 revolving debt that would be left after this consolidation would add a further £200 to Ms D's monthly commitments to credit, as well as the £380 monthly payment towards this loan.*

*In total this means Ms D's payments towards credit commitments would be around £2,100 per month; over 50% of her verified monthly income.*

*While this may appear affordable on a strictly pounds and pence basis; I don't consider it was sustainable for Ms D to maintain repayments to credit at this level.*

*I consider this is evidenced by Ms D's significant increase in credit across the relatively short period between loans one and two. Within the three months' worth of statements obtained before loan two was approved, Ms D received around £9,000 from two high-cost credit lenders. This money largely sat in Ms D's account across the following months up to Ms D obtaining further funds from MCB. This was used to service Ms D's existing commitments and day to day living costs, rather than for any big purchases or to consolidate existing debts.*

*Given the pattern of lending that I consider MCB ought to have identified, as well as the significant level of debt Ms D now had, and the significant level of monthly repayment towards credit commitments; I'm satisfied MCB ought reasonably to have identified that this loan wasn't sustainable for Ms D, and that, no matter the loan's purpose, that Ms D wasn't a suitable candidate to arrange further finance for.*

*It therefore follows I don't consider MCB made a fair lending decision when providing Ms D with loan two.*

*Ms D returned to MCB for further credit just 12 months after being provided with loan two. MCB provided her with a top up loan and has said Ms D confirmed her financial circumstances hadn't changed, and that it fairly assessed the loan was affordable for her.*

*However, as I've found above that MCB shouldn't have provided Ms D with loan two, it follows that the top up loan just 12 months later shouldn't have been provided either; and that it therefore didn't make a fair lending decision when providing loan three.*

### *Financial difficulties*

*As part of Ms D complaint to MCB she set out its inactions when she made it aware of financial difficulties and was looking to discuss a payment arrangement. MCB offered to pay Ms D £100 as it acknowledged it should have provided a better level of service and engaged with Ms D at this time. While I consider, and MCB has acknowledged, that it should have engaged with Ms D during this time, I consider its offer of £100 to be reasonable in the circumstances.*

*I say this because when Ms D contacted MCB to make it aware of her situation and to discuss what support could be provided, I've seen MCB responded asking Ms D to complete an income and expenditure assessment so it could understand her financial circumstances.*

*The outcome of the income and expenditure assessment showed a negative monthly balance. As such, I don't consider it unreasonable that MCB declined to put in place a payment arrangement for reduced payments, as the information it had suggested no level of payment was affordable for Ms D.*

*Once Ms D's account was three months in arrears MCB set out its intention to default. While I acknowledge Ms D may feel MCB ought to have provided more support at this time, I don't consider MCB actions to be unreasonable given the individual circumstances.*

*So, I consider the £100 already offered by MCB fairly reflects its delays in responding to some of Ms D's emails."*

Ms D responded accepting my provisional decision; MCB responded and said it had no further points to make.

### **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.

Having done so, I've not been presented with any new information or evidence which leads me to conclude I should depart from the findings reached within my recent provisional decision.

So, for the reasons set out in my provisional decision, I'm satisfied MCB ought reasonably to have identified through more detailed checks that loan two and three weren't sustainably affordable for Ms D, no matter their purpose, and that it therefore shouldn't have provided Ms D with these loans.

I've considered whether MCB has acted unfairly or unreasonably in any other way, including whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I'm directing results in fair compensation for Ms D 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**

Ms D's had the use of the funds from loans two and three, so I consider it's fair she repays the capital amounts lent. But Ms D has paid interest and possibly fees and charges on loans that I've found shouldn't have been provided. So, Ms D has lost out and Brent Shrine Credit Union Limited trading as My Community Bank need to put things right by taking the following action:

- Add up the total amount of capital Ms D received as a result of having been provided with loans two and three; any repayments Ms D has made to loans two and three should be deducted from this amount
  - If this results in Ms D having paid more than she received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement)\*
  - If any balance remains outstanding then Brent Shrine Credit Union Limited trading as My Community Bank should arrange an affordable and suitable payment plan with Ms D
- Remove any adverse information recorded on Ms D's credit file as a result of loans two and three once any outstanding balances have been repaid
- Pay Ms D £100 compensation for the customer service failings

As Brent Shrine Credit Union Limited trading as My Community Bank has sold the debt to a third party it will need to either buy back the debt or liaise with the third party to ensure redress is carried out as set out above.

\*HM Revenue & Customs requires Brent Shrine Credit Union Limited trading as My Community Bank to deduct tax from this interest. It should give Ms D a certificate showing how much tax it's deducted if she asks for one.

## **My final decision**

I'm upholding Ms D's complaint about Brent Shrine Credit Union Limited trading as My Community Bank and I direct it to resolve the complaint as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 8 January 2025.

Richard Turner  
**Ombudsman**