

The complaint

Mrs R complains TM Advances Limited (TM Advances) irresponsibly lent to her when it provided her with a loan.

What happened

Mrs R entered into a fixed sum loan agreement with TM Advances on 21 June 2017. The credit provided was £1,500 and the term of the loan was 24 months. Mrs R was to make monthly repayments of £173.75. The total amount repayable was £4,170.

Mrs R complained to TM Advances on 21 July 2024. Mrs R felt the lending was irresponsible and that TM Advances didn't do enough to ensure she could afford the expensive line of credit. She said she took out two additional credit accounts at the time. She says she was not adequately informed about the full implications of the high-interest rates and the total cost of the loan. The loan agreement included these details, but they were buried within lengthy text and presented in a complex manner that made them difficult to understand. There was no clear summary of the key points, nor was there an opportunity for her to ask questions and receive satisfactory explanations. She has explained repaying the loan caused significant stress.

TM Advances responded to the complaint on 30 August 2024. It said the information it obtained indicated the lending was affordable for Mrs R.

Mrs R remained unhappy and asked our service to investigate. She explained sought help for her mental health in May 2024 and was forced to resign in June 2024 which has compounded things and caused further financial instability. Whilst the loan was paid off prior to this, the repayment burden placed her in a precarious financial situation, contributing to her ongoing stress. She said she had historical defaults and a heavy reliance on joint income to meet her basic living expenses, which should have flagged affordability concerns.

Our Investigator looked into matters. TM Advances said it thought the complaint had been made too late for us to consider under the complaint handling rules of the Financial Conduct Authority (FCA). Our Investigator didn't agree about the time limits, so went on to consider the complaint. However, he didn't think it should be upheld.

Mrs R didn't accept our Investigator's findings. In summary, she said:

- She doesn't accept our Investigator's explanations around the timing of her complaint. She experienced pressure from returning to work, being the primary earner, juggling childcare, and having financial responsibility for the house. She had concerns relating to burnout and emotional exhaustion. So, she didn't question the fairness of the lending until she was in mental health therapy and started engaging with affordability complaints.
- She doesn't agree the lending relationship was fair because TM Advances accepted a self-declared income and expenditure submission without independent verification despite it offering a two-year, high-cost loan to a borrower already financially

overstretched.

- It had access to a credit search that showed defaults and didn't question the broader sustainability of further borrowing. It made a decision which contributed to worsening debt and emotional strain – ultimately impacting her mental health and finances well beyond the life of the loan.
- Even if it acted within “minimum” requirements, she doesn't believe the overall relationship was fair, sustainable, or responsible – especially when viewed in light of the wider pattern of lending she was experiencing at the time.

Mrs R also included additional evidence by way of a timeline which explained why she didn't complain sooner, a short personal statement summarising the broader impact on her life and ability to act sooner, and therapy notes which show her mental health challenges and delayed awareness.

As Mrs R didn't agree, the complaint has been passed to me to decide.

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.

There are time limits for referring a complaint to the Financial Ombudsman Service, and TM Advances thinks this complaint was referred to us too late. Our Investigator explained why he didn't think we could look at a complaint about the lending decisions that happened more than six years before the complaint was made. But he also explained why it was reasonable to interpret the complaint as being about an unfair relationship as described in Section 140 of the Consumer Credit Act 1974 (Section 140), and why this complaint about an allegedly unfair lending relationship had been referred to us in time.

Mrs R disagrees with our Investigator in that she thinks we should be able to consider the complaint about the lending decisions, and I've considered the further information she's provided to support that.

I acknowledge neither party agrees with my conclusion about what aspects of the complaint we can and can't look at. I do want to assure the parties I've considered everything which has been said and submitted. For the avoidance of doubt, I agree with our Investigator, so I don't intend to comment further. I'm also mindful that I don't intend to ask TM Advances to do anything further to resolve the complaint. I've set out why below.

This complaint can reasonably be considered as being about an unfair relationship as Mrs R has explained she has found the repayments expensive and unaffordable which has caused her a great deal of stress throughout the duration of the loan. This may have made the relationship unfair.

In deciding what is fair and reasonable I am required to take relevant law into account. Because Mrs R's complaint can be reasonably interpreted as being about the fairness of her relationship with TM Advances, relevant law in this case includes Section 140A-C.

As explained by our Investigator, Section 140A says that a court may make an order under Section 140B if it determines that the relationship between the creditor (TM Advances) and the debtor (Mrs R), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement;

- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship.

Given what Mrs R has complained about I need to consider whether TM Advances' decision to lend to her, or its later actions, created unfairness in the relationship between her and TM Advances such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Mrs R's relationship with TM Advances is therefore likely to be unfair if it didn't carry out reasonable and proportionate affordability checks and doing so would have revealed its lending to be irresponsible or unaffordable, and if it didn't then remove the unfairness this created somehow.

I think there are key questions I need to consider in order to decide what's fair and reasonable:

1. Did TM Advances carry out reasonable and proportionate checks to satisfy itself that Mrs R was in a position to sustainably repay the credit?
 - If so, did it make a fair lending decision?
 - If not, what would reasonable and proportionate checks have shown at the time?
2. Did TM Advances act unfairly or unreasonably towards Mrs R in some other way?

TM Advances had to carry out reasonable and proportionate checks to satisfy itself that Mrs R would be able to repay the credit sustainably. It's not about TM Advances assessing the likelihood of being repaid, but it had to consider the impacts of the repayment on her.

There is no set list of checks that it had to do, but it could take into account several different things such as the amount and length of the credit, the amount of the monthly repayments and the overall circumstances of the borrower.

Did TM Advances carry out reasonable and proportionate checks to satisfy itself Mrs R could sustainably afford the lending?

TM Advances has provided a copy of its system notes which shows the application made by Mrs R and the information it obtained. Mrs R declared a net monthly income of £3,500 and also explained her husband received around £1,700 (of which he contributed around £1,000 towards the household costs). TM Advances have confirmed it verified the household income electronically. The Land Registry search showed one charge against her property.

TM Advances also confirmed it carried out a credit search. It has provided a copy of the credit search which I've reviewed. I can see Mrs R had a current account with no overdraft, as well as a mortgage and a communications account which both had no missed payments or arrears. Mrs R has told us she took out additional credit at the same time as this loan. However, looking at the credit search TM Advances obtained – it couldn't have known about this additional credit because it seems it was too soon for this to show in its credit search.

The credit search did show some adverse information. It showed two defaults from

May 2012 and May 2016. The balances were for £388 and £1,199. Both were marked as satisfied on the search. It also showed a credit card had been five months in arrears within the 12 months preceding the lending decision, but this had been brought up to date and closed in April 2017. The adverse information was noted by TM Advances, and it has provided a note to show it discussed it with Mrs R who had explained it was from when she was studying, and more recently from when she was out of work. I've seen no reason why TM Advances shouldn't have accepted this as a reasonable explanation, and it seemed Mrs R's financial circumstances had improved.

TM Advances also obtained information about Mrs R's expenditure. This included various costs for mortgage payment, childcare, cost of living and car costs. It considered the contribution from Mrs R's husband and also payments towards defaults. The assessment took into account reasonable likely costs and seemed to show significant disposable income to cover the repayments and other unexpected costs. It confirmed with Mrs R there were no loans to friends or family. Overall, I don't think there was anything which ought to have prompted more thorough checks here.

Therefore, I'm satisfied TM Advances completed reasonable and proportionate checks. I've thought about Mrs R's income, the size of the monthly repayments, the total amount repayable and the duration of the loan. TM Advances verified income electronically, conducted a credit search, completed an income and expenditure assessment and asked Mrs R about the adverse information on her credit file. I don't think there was anything in the information it obtained which ought to have prompted TM Advances to do more to ensure the lending was affordable.

I note Mrs R is concerned the expenditure was self-declared. However, I'm not persuaded there was anything in the information it obtained which might have prompted TM Advances to think the declared expenditure wasn't accurate or needed to be verified further.

Did TM Advances make a fair lending decision?

Although I have concluded TM Advances completed reasonable and proportionate checks, I now need to consider whether it made a fair lending decision based on the information it obtained.

Having considered the information TM Advances obtained, I'm satisfied it made a fair lending decision. After accounting for the costs Mrs R had declared and credit commitments, TM Advances calculated disposable income of £1,176. The affordability assessment demonstrated Mrs R had sufficient disposable income to be able to sustainably afford the repayments of £173.75, as well as cover other unaccounted for expenditure and emergency costs.

Additionally, the credit file showed some adverse information, but the defaults were historic and TM Advances had been provided with a reasonable explanation. It seemed Mrs R's financial situation had largely improved. So, I don't think there was anything in the credit search to indicate lending to Mrs R was irresponsible or likely to worsen her financial position.

I appreciate this will be a disappointing outcome for Mrs R who feels strongly about her complaint and has explained how she was impacted by the loan. Having considered everything, I'm unable to conclude TM Advances created unfairness in its relationship with Mrs R by lending to her irresponsibly. I'm satisfied the checks carried out were reasonable and proportionate and it seemed from the information it had that she'd sustainably be able to afford the repayments.

Did TM Advances act unfairly or unreasonably in some other way?

Mrs R has raised concerns about the information she was provided at the point of sale. She acknowledges the agreement does explain the terms, but she didn't get anything further. I've seen a copy of the agreement, and I don't agree the important terms are buried. On the front page of the agreement, it sets out in bold the duration, amount of credit and the total amount payable. I have also seen a copy of an explanation document which TM Advances says it provides with its agreements. However, I think the terms are clearly set out in the agreement itself and I think if those terms were in anyway unclear its more likely than not that Mrs R would have asked about them much sooner.

Additionally, I understand Mrs R repaid the loan as per the terms. Mrs R has told us the payments caused undue stress and difficulty. However, I haven't seen anything which would lead me to conclude TM Advances ought to have been aware there might be a problem prior to the complaint. By this time, the loan had already been repaid. So, I'm unable to conclude TM Advances treated Mrs R unreasonably or unfairly in some other way.

Summary

Overall, and based on the available evidence I don't find Mrs R's relationship with TM Advances is or was unfair. It's not clear enough to me that TM Advances created unfairness in its relationship with Mrs M by lending to her irresponsibly initially, or afterwards when Mrs R was repaying the lending. I don't find that TM Advances treated Mrs R unfairly in any other way.

My final decision

For the reasons outlined above, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 18 July 2025.

Laura Dean
Ombudsman