

The complaint

Mr H says Bank of Scotland plc ('BoS'), irresponsibly lent to him. Mr H says he was a vulnerable customer at the time, and he made this known to BoS. He thinks it shouldn't have lent to him for this reason.

Mr H's complaint has been brought by a representative and I've referred to Mr H and the representatives' comments as being from Mr H for ease of reading.

What happened

Mr H has supplied some information about his circumstances before and after he took the loan. I'll say that Mr H's personal and financial problems revolve around an addiction. But I'm not going to provide much more detail than this in the decision. This is partly as I don't need to, to reach a fair decision, and partly to protect Mr H's privacy. But I have read all the information provided, and I'll firstly say I hope things have improved for Mr H in what must be a very difficult time for him and his family.

This complaint is about a loan agreement that Mr H took out in June 2024. Mr H borrowed £14,000 and it was due to be repaid through 60 monthly instalments of £306.46. If Mr H made repayments in line with the credit agreement, he would need to repay a total of £18,387.

Mr H has complained to BoS about the lending. He says that he informed it that he was in a vulnerable situation, and this should have led to it asking more questions. And if it had done this then it wouldn't have lent.

BoS considered this complaint, and it didn't uphold it. It thought it'd done adequate checks, which showed that Mr H could afford the lending. Mr H didn't agree with this and brought his complaint to the Financial Ombudsman Service.

Our Investigator didn't uphold Mr H's complaint. She thought that BoS completed reasonable and proportionate checks that showed the loan was affordable. She didn't think it was incorrect to lend to Mr H due to his personal problems.

Mr H didn't agree with the Investigator. He reiterated that:

- Given that he said the loan was for rehabilitation purposes, BoS should have asked more questions about this.
- And when it found out more information the loan should have been instantly declined. This is because a person in his situation couldn't make sound financial decisions.
- The debt, and the adverse consequences to his credit file could have been avoided.

There was some further correspondence, but no new issues were raised. Because Mr H didn't agree, this matter has been passed to me to make a final decision.

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.

When someone complains about irresponsible and/or unaffordable lending, there are two overarching questions I need to consider when deciding what's fair and reasonable in all of the circumstances of the complaint. These are:

1. Did BoS complete reasonable and proportionate checks to satisfy itself that Mr H would be able to repay the credit in a sustainable way?
 - a. if so, did BoS make a fair lending decision?
 - b. if not, would reasonable and proportionate checks have shown that Mr H could sustainably repay the borrowing?
2. Did BoS act unfairly or unreasonably in some other way?

And, if I determine that BoS didn't act fairly and reasonably when considering Mr H's application, I'll also consider what I think is a fair way to put things right.

Did BoS complete reasonable and proportionate checks to satisfy itself that Mr H would be able to repay the credit in a sustainable way?

There's no set list for what reasonable and proportionate checks are, but I'd expect lenders to consider things such as the amount, duration, and payments of the finance being applied for, as well as the borrowers' personal circumstances at the time of each application.

BoS have explained that it assessed the affordability of the loan. It did this using various pieces of information and estimates, a summary of which is below:

- It asked Mr H what his income was, and he said it was £30,000 a year. BoS verified that Mr H received £1,950 a month from his bank statements.
- Mr H said he paid £500 a month in rent and BoS verified he paid about £450 a month from his bank statements.
- It estimated his living costs using Office of National Statistics data which said these would be £729 a month.
- He had some existing credit commitments, and he paid £150 a month towards these.
- He also had regular direct debits of about £120.
- It looked at some information from a credit reference agency and found no adverse payment information such as late payments, defaults or county court judgements.

The loan repayments were about £300 a month and this would leave Mr H with about £200 left over.

I think BoS made reasonable and proportionate checks into whether Mr H was likely to be able to afford the lending from a financial perspective. And these checks showed this was likely to be the case. I don't think BoS was wrong to lend for financial reasons.

I don't think there is any ongoing disagreement about this, and I note that Mr H has said *'that the loan was feasible due to his bank statements but should have been stopped due to his personal situation'*.

So, I'm not going to consider the financial aspects of the lending any further. I'm not upholding Mr H's complaint due to Mr H being unable to afford it.

The crux of this complaint is that Mr H feels BoS shouldn't have lent to him due to his addiction problems, and the fact that he would use the funds to go into rehabilitation, which in turn would affect his earnings. And the potential long term ramifications of this.

The information provided to me shows that Mr H called BoS in June 2024 to enquire about a loan. In the call he said that the purpose of the lending would be to fund private rehabilitation. BoS checked if this was a suitable reason to lend and it confirmed that it could lend for this reason.

I've listened to this call and BoS didn't make any detailed enquiries about the circumstances surrounding Mr H's need for rehabilitation. And I also think it's fair to say that Mr H, despite what he has said about his situation at the time, seemed to understand the discussions. There is no suggestion that the loan was taken under any kind of duress or undue influence.

There was a second call between Mr H and BoS but there isn't anything material to add about this call.

Mr H applied for the loan online without assistance from BoS after these calls.

The loan proceeds did pay for Mr H's rehabilitation. But Mr H has explained that his addiction problems remained after the rehabilitation. And both his financial and personal situation have worsened since this time. He is continuing to receive treatment and help, but he has been unable to fully return to work, and his financial situation has become precarious.

There is legislation about this, and the financial regulator - the FCA - has provided detailed rules and guidance about how vulnerable consumers should be treated as customers. On the one hand, care should be taken where someone has vulnerabilities or complex needs, and these should be properly considered. But the legislation and rules are also very clear in that this kind of consumer shouldn't be discriminated against, and these needs shouldn't hinder them receiving credit, if it is appropriate for them.

So, it isn't right to say that Mr H's circumstances should have led to the lending being declined 'automatically', as he now thinks it should have.

Looking into Mr H's circumstances, when he approached BoS for the loan he did have some addiction problems and it's fair to say that this could have affected his ability to repay the lending. But, as I've outlined above, there was no sign at the time of lending that Mr H was having financial difficulties. I know he feels he wasn't in the right place to, or was capable of, making sound financial decisions. But the information BoS had showed that, despite his addiction problems, he hadn't seemingly made poor decisions so far. And he had been able to manage his finances, alongside his health problems.

I can see that Mr H did go on to have problems managing his money, he says this was due to his addiction problems worsening. I've thought about whether BoS should have anticipated this in some way and not lent. In doing so I've borne in mind that it's important not to assess this situation with the benefit of hindsight. BoS wouldn't know at the time of lending about Mr H's rehabilitation outcome or about the problems he would face later.

Mr H had asked to borrow money to essentially pay for private treatment for his problems. And this seems to me a positive step and it doesn't necessarily follow that BoS should have thought that his circumstances would have worsened due to this. I think the opposite could be a reasonable conclusion to draw from the actions Mr H was taking and the reason he wanted to borrow.

And BoS would need to be mindful that if it decided not to lend, that it could be, in effect, making harder for Mr H to get the treatment he thought he needed.

Overall, having considered everything, I don't think that BoS was wrong to lend due to its knowledge of Mr H's health problems. I appreciate this will not be the answer Mr H will want, and I hope it does not cause any undue distress.

And I would remind BoS of its responsibility to treat Mr H with forbearance and understanding if he has payment difficulties going forward.

Did BoS act unfairly or unreasonably in some other way?

I have 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 it lent irresponsibly to Mr H 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.

I haven't seen anything to make me think BoS acted unfairly or unreasonably in some other way.

My final decision

For the reasons set out above, I don't uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 19 September 2025.

Andy Burlinson
Ombudsman