

Complaint

Mr M has complained about personal loans which National Westminster Bank Public Limited Company (“NatWest”) provided to him. He’s said that these loans were unaffordable and this created a cycle of him having to borrow further in order to make his repayments.

Background

Mr M was provided with two loans by NatWest. His loan history is as follows:

Loan	Date taken	Amount	Term*	Monthly payment	Settled
1	April 2018	£18,000.00	66	£299.45	April 2019**
2	April 2019	£17,500.00	84	£338.53	September 2019

* in months

** loan 1 was settled with £15,347.45 of the £17,500.00 provided for loan 2

In May 2024, Mr M complained saying said that these loans were unaffordable and this created a cycle of him having to borrow further in order to make his repayments.

NatWest did not uphold Mr M’s complaint. It thought that it carried out reasonable and proportionate checks before agreeing to lend to Mr M and these showed these loans to be affordable. When Mr M’s complaint was referred to our service, NatWest told us that we couldn’t consider the complaint about loan 1 as it was made too late.

One of our investigators reviewed what Mr M and NatWest had told us. He reached the conclusion that we could look at the Mr M’s complaint about both of his loans. However, he wasn’t persuaded that proportionate checks would have shown the loans were unaffordable for Mr M. So the investigator didn’t recommend that Mr M’s complaint be upheld.

Mr M disagreed with the investigator and asked for an ombudsman’s decision.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Basis for my consideration of this complaint

There are time limits for referring a complaint to the Financial Ombudsman Service. NatWest has argued that part of Mr M’s complaint was made too late because he complained more than six years after it provided him with his first loan, as well as more than three years after he ought reasonably to have been aware of his cause to make this complaint.

Our investigator explained why it was reasonable to interpret the complaint as being one alleging that the lending relationship between Mr M and NatWest was unfair to Mr M as described in s140A of the Consumer Credit Act 1974 (“CCA”). He also explained why this complaint about an allegedly unfair lending relationship had been made in time.

Having carefully considered everything, I've decided not to uphold Mr M's complaint. Given the reasons for this, I'm satisfied that whether Mr M's complaint about some of the specific charges applied was made in time or not has no impact on that outcome.

I'm also in agreement with the investigator that Mr M's complaint should be considered more broadly than just the individual lending decisions. I consider this to be the case as Mr M has not only complained about the circumstances behind NatWest's individual decisions to provide him with his loans, but also the fact he alleges that the provision of these loans created a cycle of him having to borrow further in order to make his repayments.

I'm therefore satisfied that Mr M's complaint can therefore reasonably be interpreted as a complaint that the lending relationship between himself and NatWest was unfair to him. I acknowledge the possibility that NatWest may still disagree that we are able to look at Mr M's complaint about both of his loans, but given the outcome I have reached, I do not consider it necessary to make any further comment or reach any findings on these matters.

In deciding what is fair and reasonable in all the circumstances of Mr M's case, I am required to take relevant law into account. As, for the reasons I've explained above, I'm satisfied that Mr M's complaint can be reasonably interpreted as being about that his lending relationship with NatWest was unfair to his, relevant law in this case includes s140A, s140B and s140C of the CCA.

S140A says that a court may make an order under s140B if it determines that the relationship between the creditor (NatWest) and the debtor (Mr M), 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. S140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given Mr M's complaint, I therefore need to think about whether NatWest's respective decisions to lend to Mr M, or its later actions resulted in the lending relationship between Mr M and NatWest being unfair to Mr M, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Mr M's relationship with NatWest is therefore likely to be unfair if it didn't carry out reasonable and proportionate checks into Mr M's ability to repay these loans in circumstances where doing so would have revealed the monthly payments to have been unaffordable, or that it was irresponsible to lend. And if this was the case, NatWest didn't then somehow remove the unfairness this created.

Our typical approach to complaints about irresponsible or unaffordable lending

We've explained how we handle complaints about irresponsible and unaffordable lending on our website. And I've used this approach to help me decide Mr M's complaint.

I think that it would be helpful for me to set out that we consider what a firm did to check whether loan payments were affordable (asking it to evidence what it did) and determine whether this was enough for the lender to have made a reasonable decision on whether to lend.

Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify that information – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

That said, I think that it is important for me to explain that our website does not provide a set list of mandated checks that a lender is expected to carry out on every occasion – indeed the regulator's rules and guidance did not and still do not mandate a list of checks to be used. It simply sets out the types of things that a lender could do.

It is a for a lender to decide which checks it wishes to carry out, although we can form a view on whether we think what done was proportionate to the extent it allowed the lender to reasonably understand whether the borrower could make their payments. Furthermore, if we don't think that the lender did enough to establish whether the repayments to an agreement were affordable, this doesn't on its own meant that a complaint should be upheld.

We would usually only go on to uphold a complaint in circumstances were we were able to recreate what reasonable and proportionate checks are likely to have shown – typically using information from the consumer – and this clearly shows that the repayments in question were unaffordable.

I've kept this in mind when deciding Mr M's complaint.

Application to Mr M's complaint – Did NatWest act fairly and reasonably when deciding to provide Mr M with his loans?

The parties' arguments

NatWest says it agreed to Mr M's applications after he provided details of his monthly income and some information on his expenditure. It says it cross-checked this against information on credit searches which it carried out. In its view, all of this information showed Mr M could afford to make the repayments he was committing to on both occasions.

On the other hand, Mr M has said that these loans were unaffordable and they created a cycle of him having to borrow further in order to make his repayments.

Why I think that NatWest's checks before providing loan 1 to Mr M were reasonable and proportionate

As I've set out in the background section of this final decision, loan 1 was provided to Mr M in July 2016. It was for £18,000.00 and Mr M was required to make 66 monthly repayments of just under £300. Mr M looks to have declared that he was earning £3,042.00 a month. This was cross checked against the amount of funds Mr M received into his main bank account each month.

I understand that the credit checks NatWest carried out didn't show that Mr M had any significant adverse information – such as defaulted accounts or county court judgments (“CCJ”) recorded against him. So it looks to me to be the case that NatWest took steps to check Mr M's income. And while its credit searches did show that Mr M had some existing debts, these weren't excessive (compared to the amount of his income) and at the time of this application, at least, were being reasonably managed.

Given what NatWest's credit searches showed, Mr M's income as well as the rest of the information he declared, I'm satisfied that there was no obvious reason for NatWest to question the rest of the information it had obtained during its assessment. As this information suggested that the monthly repayments for loan 1 were affordable for Mr M, I don't think that it was unfair or unreasonable for NatWest to reach this conclusion and agree to provide Mr M with this loan.

Why I don't think that NatWest's checks before providing loan 2 were reasonable and proportionate

The information NatWest has provided suggests that it carried out similar, or even the same, checks (as it did when agreeing to provide loan 1) before it agreed to provide loan 2. I have already explained why I think that this was sufficient for loan 1. However, I'm mindful that loan 2 was for an increased amount and was now being provided in circumstances where Mr M was a repeat borrower.

Indeed, Mr M was provided with loan 2 before he'd repaid loan 1 and some of the funds from loan 2 went towards settling the outstanding balance on loan 1. Furthermore, Mr M was committing to making increased payments for 84 months for loan 2. Given Mr M was a repeat borrower I would have expected NatWest to have taken steps to understand what his committed monthly expenditure actually was, rather than rely on declarations or estimates of this.

As I can't see that NatWest did obtain this information from Mr M, I'm not persuaded that the checks it carried out before providing loan 2 were reasonable and proportionate.

Would reasonable and proportionate checks have prevented NatWest from providing loan 2 to Mr M

As NatWest didn't carry out sufficient checks before providing loan 2 to Mr M, I've gone on to decide what I think NatWest is more likely than not to have seen had it obtained the information that I think it should have gathered. As I've explained, bearing in mind the circumstances here, I would have expected NatWest to have had a reasonable understanding about Mr M's actual regular living expenses as well as his income and existing credit commitments.

I want to be clear in saying that this isn't the same as saying that NatWest had to obtain bank statements in order to verify all of this, as how it found out what I think that it needed to find out was down to it. For example, it could have chosen to request copies of bills or other proof of payment. The important thing was that NatWest needed to get an understanding of Mr M's actual regular living costs.

I've therefore considered the information Mr M has provided us with in order to determine what I think NatWest finding out more about Mr M's actual regular living costs are likely to have shown it. Having done so, I don't think that NatWest attempting to find out further information about Mr M's actual regular living costs would have made a difference here.

I say this because I've not seen anything that shows me that when Mr M's committed regular living expenses, other non-discretionary expenditure and his existing credit commitments were deducted from his income he did not have the funds to make the monthly payments to loan 2.

In considering whether NatWest was reasonably entitled to lend to Mr M, I've also thought about Mr M's arguments in relation to his gambling. The suggestion here appears to be that NatWest ought to have conducted a full review of Mr M's financial circumstances – i.e. one akin to a mortgage affordability assessment – simply because Mr M's main bank account was with NatWest.

However, such an approach – of mandating that a full financial review be carried out, irrespective of any other circumstances simply because a customer has their main account with a lender – does not to me, at least, to be in keeping with the principle of carrying out an assessment that is proportionate.

Indeed, I consider that a lender insisting on reviewing a customer's bank statements irrespective of the rest of the circumstances (such as the amount lent, the monthly payments due and what any other information the lender may hold indicates), simply because a customer has a current account with that lender, would be disproportionate. In my view, it would be an example of simply continuing to apply a process to a situation, without taking account of the situation and what else a lender might know about the customer.

So I wouldn't expect a lender to automatically carry out a forensic review of bank statements before lending to a customer, simply because that customer has a bank account with it, in the way that Mr M appears to be suggesting. In my view, whether it would be proportionate to take such a course of action would depend on the rest of the circumstances of the borrowing.

In this case, given the rest of the information gathered suggested that Mr M was in a reasonable financial position, I don't think that forensically reviewing Mr M's bank statements would have been proportionate here. Mr M had a decent salary and his repayment record on his existing credit was reasonable.

Furthermore, the vast majority of the amount he was borrowing was directly going towards settling loan 1 and this was consistent with Mr M's stated loan purpose of debt consolidation. Therefore, I don't think that NatWest was required to enter into a granular review of Mr M's account transactions.

As I've explained earlier in this decision, it is only fair and reasonable for me to uphold a complaint in circumstances where I can see that any additional credit provided was clearly unaffordable. And having considered all the information provided, I've not been persuaded that reasonable and proportionate checks would more likely than not have shown NatWest that the monthly payments required for loan 2 were as a matter of fact unaffordable for Mr M.

Mr M's pattern of lending – Is it the case that NatWest ought reasonably to have realised that it was unsustainable or otherwise harmful for him?

I've also kept in mind that NatWest provided a second loan to Mr M and that repeat borrowing in itself can sometimes be an indication of difficulty. But Mr M had successfully made all of his repayments to loan 1. He was also borrowing less than the total amount he borrowed for loan 1.

Furthermore, some of Mr M's arguments regarding having to borrow to make his payments to this loan aren't supported by the available evidence. I say this because he's referred to

taking out a loan for around £10,075.00 in April 2019. But this was a few days after he'd taken this loan and therefore at a time where he wasn't required to make a payment of £10,000.00 to NatWest.

It also looks like Mr M entered into a hire-purchase agreement shortly after settling loan 2. However, as Mr M wasn't being provided with cash and was instead receiving the use of a car, at a time when he'd already consolidated this loan into a secured loan, he clearly cannot have entered into that agreement in order to be able to repay NatWest.

So while Mr M being a repeat borrower has led to me taking a closer look at the overall pattern of lending here, I'm satisfied that it wasn't unfair for NatWest to have provided loan 2, to Mr M on the basis that it ought to have realised that it was increasing Mr M's indebtedness in a way that way unsustainable or otherwise harmful.

Having carefully considered everything and while I appreciate that this will disappoint Mr M, I've not been persuaded that proportionate checks would have shown NatWest that it shouldn't have provided loan 2 to Mr M. Furthermore, I don't think that Mr M's pattern of borrowing meant that NatWest offered this loan in circumstances where it ought reasonably to have realised that it may have been unsustainable or otherwise harmful for him either.

Overall, and based on the available evidence I don't find that Mr M's relationship with NatWest was unfair. I've not been persuaded that NatWest created unfairness in its relationship with Mr M by irresponsibly lending to him when providing him with either of his loans. I don't find that NatWest treated Mr M unfairly in any other way either based everything I've seen.

So while I can understand Mr M's sentiments and appreciate why he is unhappy, I'm nonetheless not upholding this complaint. I appreciate this will be very disappointing for Mr M. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 18 September 2025.

Jeshen Narayanan
Ombudsman