

The complaint

Mr Z complains that Marks & Spencer Financial Services Plc trading as M&S Bank was irresponsible in its lending to him.

What happened

Mr Z was provided with a £8,000 loan by M&S Bank in April 2024. The loan term was 12 months and Mr Z was required to make monthly repayments of around £695.

Mr Z has explained that he was a victim of a scam and encouraged to take out loans as part of this. He said he took out a large loan shortly before the M&S Bank loan which should have raised concerns. He doesn't think that M&S Bank carried out adequate checks before the loan was provided and believes that had it done so it wouldn't have lent to him.

M&S Bank said that Mr Z applied for the loan online saying it was for home improvements. It said that Mr Z's application was automatically accepted as it passed all of its internal credit and affordability checks.

Mr Z referred his complaint to this service.

Our investigator upheld Mr Z's complaint. She thought that the checks carried out by M&S Bank before the loan was provided were proportionate but noted that these showed Mr Z to only have around £98 of disposable income after his costs including the M&S Bank loan repayments. She didn't think this was enough for Mr Z to manage the repayments over the loan term without experiencing financial strain.

M&S Bank didn't agree with our investigator's view. It said its affordability checks factored in future stresses such as inflation, interest rate increases and economic changes. It said its approach for estimating expenditure was checked frequently with third party sources. It didn't accept that the disposable income of £98 meant that the loan shouldn't have been provided.

Our investigator responded to M&S Bank's comments but as these didn't change her view, and a resolution hadn't been agreed, this complaint was passed to me, an ombudsman to issue a decision.

My provisional conclusions

I issued a provisional decision not upholding this complaint. The details are set out below.

Mr Z was provided with a £8,000 loan repayable over 12 monthly instalments of around £695. Before the loan was agreed, M&S Bank gathered information about Mr Z's employment, income, housing costs and the purpose of the loan. Mr Z declared that he was working full time with an annual income of £34,000. The purpose of the loan was recorded as 'House'. Mr Z said he was living with his partner and had one dependent. M&S Bank said that it verified Mr Z's income using a credit reference agency tool. It said this supported a monthly net income figure of £2,155.

M&S Bank explained that in its affordability assessment it used a combination of modelled essential expenses as well as data from the credit reference agencies for Mr Z's mortgage and other credit costs. A credit check was completed and this recorded Mr Z having £4,800 of unsecured debt. While M&S Bank noted Mr Z's comment that he had taken out another loan shortly before this one, it said this wasn't shown on his credit file at the time of its checks. It said that as Mr Z had said he was living with a partner, consideration was given to his costs being shared. Based on its calculations, M&S Bank found that Mr Z had disposable income of around £790, which would leave around £98 after the M&S Bank loan repayments.

I have considered the information gathered and checks carried out before the loan was provided. The credit check didn't show Mr Z having any defaults or county court judgments and it reported his accounts as up to date. I acknowledge Mr Z's comment about taking another loan out shortly before this one but also M&S Bank's comment about this not appearing on the credit check results. I think it reasonable that M&S Bank relied on the credit check results it received.

While Mr Z didn't have a concerning amount of debt before the loan was provided, the repayments under the M&S Bank loan accounted for over 30% of Mr Z's income. Given this and noting M&S Bank's calculations resulted in Mr Z having less than £100 disposable income, I think that the initial checks should have raised concerns that meant further questions were asked. And in this case, I think that M&S Bank should have carried out further checks of Mr Z's income and assessed his actual expenses to ensure that the lending would be affordable for him.

I do not think that M&S Bank was necessarily required to obtain copies of Mr Z's bank statements as a clear picture of Mr Z's financial circumstances could be gained through other sources. But I have used the information in Mr Z's bank statements to understand what further checks would likely have identified. Mr Z's bank statement for the month leading up to the M&S Bank loan application has been provided (along with the month following the loan being given), but I do not have statements for earlier months. I have considered the information in the bank statements along with the other information submitted as part of this complaint.

Mr Z's bank statement records his income as higher than the net monthly figure recorded by M&S Bank. In the month before the loan application his income was £2,744 (and while the following month's income isn't relevant to the calculation, I note this was higher). The statement shows that Mr Z received a 50% contribution towards his mortgage payments resulting in his monthly contribution being £632. Mr Z made transfers to his partner for bills such as utilities, media contracts, insurance and some shopping. These were around £450 a month. Mr Z's existing credit commitments were identified by M&S Bank as around £369 and I think it reasonable it relied on this figure. I also note this figure is supported by Mr Z's bank statement. Adding the M&S Bank loan repayments would give total credit commitments of around £1,064 a month.

Based on the higher income figure identified in Mr Z's bank statement, I find that further checks would have supported the loan being affordable for Mr Z. Therefore, I do not find I can uphold this complaint.

No new information was provided in response to my provisional 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.

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance and good industry practice – is set out on our website.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments, and the total cost of the credit.

As I set out in my provisional decision, given the size of the loan and the cost of the repayments compared to Mr Z's declared income, and noting the low disposable income M&S calculated, I think further checks should have been undertaken before the loan was provided to ensure that it would be affordable for Mr Z. However, for the reasons I set out, I find that had further checks taken place they wouldn't have shown the loan to be unaffordable.

As no new information was provided in response to my provisional decision, my conclusions haven't changed. And for the reasons I have set out, I do not uphold this complaint.

I've also considered whether M&S Bank acted unfairly or unreasonably in some other way given what Mr Z has complained about, including whether its relationship with Mr Z might have been unfair under Section 140A Consumer Credit Act 1974. However, for the reasons I've already given, I don't think M&S Bank lent irresponsibly to Mr Z 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.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 28 July 2025.

Jane Archer
Ombudsman