

The complaint

Mrs T complains that Marks & Spencer Financial Services Plc (MSFS) irresponsibly gave her a credit card account that she couldn't afford.

What happened

Around August 2021 Mrs T applied for a revolving credit facility (credit card) with MSFS. Her application was successful, MSFS issued Mrs T with a credit card with a credit limit of £1,000. The credit limit was never increased. Mrs T said she struggled to sustain her repayments and had MSFS properly checked her financial situation they would have seen the lending wasn't affordable for her. She complained to MSFS.

MSFS said they'd used application and credit reference agency (CRA) data to assess whether the lending was affordable. And based on these checks said Mrs T should have had sufficient disposable income to sustain her repayments.

Mrs T wasn't happy with MSFS' response and referred her complaint to us.

Our investigator found MSFS' checks to be reasonable and proportionate for the lending they provided. And that MSFS had made a fair lending decision.

Mrs T didn't agree she said they'd based her income on her being employed but she said she was no longer employed, and her only income was from benefit payments. Mrs T asked for an ombudsman 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.

I understand my decision will disappoint Mrs T but for me to say MSFS must do something different I must first be satisfied that they've done something wrong. I can't see that they have here which is why I won't be asking them to do anything else. I'll explain why.

I've considered the relevant rules and guidance on responsible lending set by the regulator, laid out in the consumer credit handbook (CONC). In summary, these say that before MSFS offered the revolving credit facility they needed to complete reasonable and proportionate checks to be satisfied Mrs T would be able to repay the debt in a sustainable way.

MSFS is free to decide how to set their lending criteria, but they should complete proportionate checks to ensure borrowing is sustainable. There's no set list for what reasonable and proportionate checks are. In deciding what was proportionate MSFS needed to consider things such as (but not limited to): the amount of credit, the size of any regular payments (taking into consideration the rules and guidance in CONC relating to assumptions concerning revolving credit), the cost of credit and the consumer's circumstances.

What's important to note is that Mrs T was provided with a revolving credit facility rather than a loan. This means there isn't a set amount to be repaid each week/month, rather the repayment is based on the monthly transactions and any outstanding balance. MSFS was approving a credit limit of £1,000. While there isn't a set amount that needed to be repaid each month CONC requires a firm to assume when carrying out their assessment that the entire credit limit is drawn down at the earliest opportunity and repaid in equal instalments over a reasonable period. So, I think MSFS could have reasonably assumed Mrs T would need to be able to repay around £50 each month to settle any balance within a reasonable period.

CONC says a lender needs to take reasonable steps to estimate a consumer's income and non-discretionary spending. And that a lender generally shouldn't solely rely on a consumer's declared income but check this with an independent source such as a CRA or third party. It also allows for the use of statistical data in determining any non-discretionary spending. MSFS said they used Mrs T's application, CRA and statistical data. I've considered the checks they did and what these showed.

Mrs T declared she'd an annual income of £21,000, was in full time employment, an owner occupier with no dependent children. MSFS said they validated Mrs T's income against a pre-determined threshold based on age, employment status and demographic Information. And their CRA checks showed Mrs T had unsecured debt of £9,124, with her debt-to-income ratio being around 40%. Mrs T's active accounts were all up to date, there weren't any county court judgments recorded. But MSFS did find two registered defaults on Mrs T's credit history, the newest of which had been registered 34 months prior to the lending.

It may help to explain here that, while information like a default on someone's credit file may often mean they're not granted further credit – it doesn't automatically mean that a lender won't offer borrowing. Here, MSFS considered the information that Mrs T had on her credit file, deciding that for the amount being borrowed, and the time that had elapsed would consider the defaults to be historic, Mrs T would be accepted under their lending criteria which in the circumstances, I think was reasonable.

MSFS said to estimate Mrs T's outgoings they used statistical data for items such as council tax, utilities, food, clothing, communications/internet/tv, home essentials, fuel/travel, insurance and wellbeing, amounting to £406, as a homeowner they determined she'd housing costs of £172 (as Mrs T lived with a partner, it's not unreasonable to consider that these expenses would be shared). The CRA check also showed Mrs T had credit commitments of £195. Taking all of this into account, MSFS decided Mrs T should have had around £625 in disposable income which should have been sufficient to sustain the repayments for her credit card account.

I take on board Mrs T's comments that she was no longer working and was in receipt of benefits. But I'm satisfied the checks MSFS did were reasonable and proportionate and aligned to the relevant guidance. And I don't think that there was anything immediately obvious in the information that MSFS had, including Mrs T's declared income and existing credit, which meant they shouldn't rely on it. So, I don't think MSFS needed to have asked Mrs T to provide further evidence in support of her income and expenditure such as bank statements, before providing her with the credit limit in this instance as I think anything more would be disproportionate. And based on these checks I'm satisfied MSFS made a fair lending decision as Mrs T should have had sufficient disposable income to sustain her repayments.

Mrs T said MSFS hadn't helped her when she told them of her financial difficulties, saying that she did this around 2021. I can see Mrs T's credit card, upon opening had an option of

0% interest for 20 months for purchases and balance transfers. Mrs T's credit card statements show that she was managing her account generally paying the minimum payment required, but on several occasions paying more than the minimum required. She didn't have any missed or over the limit charges applied until around January 2024. I can see on her statements that MSFS provided contact details should Mrs T be unable to make her minimum repayments.

I've checked the records held by MSFS which don't show any contact from Mrs T prior, during or immediately after her application regarding any concerns with managing her repayments. MSFS said Mrs T generally managed the account in line with the terms and condition, but there were some late payments from January 2024, with the account settled in full at the end of April 2024 and closed. MSFS have shown they wrote to Mrs T about her late payments and arrears from January 2024, providing contact if she needed support. But they've no evidence that Mrs T contacted them about her financial situation before she settled the account. So, on the evidence I've seen I can't say MSFS treated Mrs T unfairly.

I've also considered whether MSFS acted unfairly or unreasonably in some other way given what Mrs T has complained about, including whether their relationship with her might have been viewed as unfair by a court under Section 140A Consumer Credit Act 1974. But, for the reasons I've already given, I don't think MSFS lent irresponsibly to Mrs T or otherwise treated her unfairly. I haven't seen anything to suggest that s.140A or anything else, would given the facts of this complaint, lead to a different outcome here.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 25 November 2025.

Anne Scarr
Ombudsman