

The complaint

Mr B complains that MARKS AND SPENCER FINANCIAL SERVICES PLC (Marks and Spencer) irresponsibly entered into two fixed sum loan agreements with him.

What happened

In July 2021, Mr B applied for a loan with Marks and Spencer. He was given a loan for £12,500. The total repayable, including the interest was £13,762.56, to be repaid over 84 monthly repayments of £163.84 (loan one).

In May 2022, Mr B applied for another loan with Marks and Spencer. He was given a loan for £12,712. The total repayable, including the interest was £15,954.12, to be repaid over 84 monthly repayments of £189.93 (loan two).

Mr B complained that Marks and Spencer should not have provided him with the loans. He said that appropriate affordability checks hadn't been completed and if they had Marks and Spencer would have seen that the loans were unaffordable for him. Marks and Spencer didn't think that it had acted unfairly when lending to Mr B.

Mr B also complains that he received too much contact from Marks and Spencer in relation to the loan accounts when he was in financial difficulty.

Our investigator didn't recommend that the complaint should be upheld. Mr B didn't agree. So the complaint has been passed to me for 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.

There isn't a set list of checks Marks and Spencer was required to complete before lending to Mr B. The rules require it to ensure it carried out proportionate checks. What is proportionate will vary with each lending decision and takes into account things such as (but not limited to): the amount of credit, the size of the repayments, the cost of the credit, the purpose the credit was taken out for and the consumer's circumstances.

Loan one

Marks and Spencer completed a credit check which showed that there had been no recent adverse information recorded, such as defaults or County Court Judgements against Mr B's existing accounts. I'm satisfied that from this data Marks and Spencer would have been reassured that Mr B was managing his existing borrowing well.

Mr B says he had recently re-mortgaged his property and that he had high volumes of borrowing which ought to have concerned Marks and Spencer. Whilst I can see that Mr B had external borrowing, I'm satisfied that this alone is not a cause for concern. As explained

above, Marks and Spencer would have known that he was managing his borrowing well, so it had no reason to expect Mr B was in financial hardship.

Mr B declared his annual income to be £65,000. Marks and Spencer verified Mr B's net monthly income to be £3,594. Marks and Spencer used statistical data to estimate Mr B's likely monthly expenditure to be £380. Taking into account the data it could see from the credit check, Marks and Spencer estimated Mr B's monthly repayments towards his existing debts to be £652.

It is not clear what figure Marks and Spencer used when estimating Mr B's monthly housing costs. However, I can see from the evidence provided that the credit check likely showed Mr B's full monthly mortgage payment to be £728.

I'm satisfied that Marks and Spencer completed fair and proportionate checks when determining whether to provide Mr B with the loan of £12,500. I say this because it verified his income, made reasonable estimations of Mr B's likely outgoings when completing an affordability assessment and the checks showed no signs of any financial distress. I don't think it ought to have done anything further in the circumstances.

Even if Marks and Spencer used the full mortgage payment figure in its affordability calculation, this would have left Mr B with around £1,834 each month to spend on the new loan repayments and a buffer of funds for emergency unaccounted for spending. I'm satisfied this is a substantial buffer and would likely have given comfort to Marks and Spencer that the loan was sustainably affordable to Mr B. Because of this, I consider a fair lending decision was made when Marks and Spencer gave Mr B the loan for £12,500.

Loan two

At the time of the application for the second loan, Mr B declared that his income remained the same at £65,000. Marks and Spencer verified that Mr B's net monthly income was £3,537, a similar figure to that of loan one.

Marks and Spencer completed another credit check which showed no new adverse information in relation to any of Mr B's existing borrowing. It also had access to data regarding how Mr B had managed his repayments for the first loan, which appear to have been made on time and in full. I think this information would have given Marks and Spencer comfort knowing Mr B didn't appear to be struggling with his borrowing.

I can see from the information available that Mr B's unsecured borrowing had almost doubled between the first and second loan, however the majority of this increase was due to loan one. I'm not persuaded that the level of borrowing Marks and Spencer could see on the credit check ought to have caused it concern. This is because the borrowing was being managed well and there were no signs of financial distress.

Marks and Spencer estimated that Mr B's monthly credit commitments amounted to £1,013. Using statistical data, it also estimated that Mr B's essential living expenses were £405.52.

Again, it is not clear what figure Marks and Spencer used when estimating Mr B's monthly housing costs. However, as with loan one, I can see from the evidence provided that the credit check likely showed Mr B's full monthly mortgage payment was still £728.

I'm satisfied that Marks and Spencer completed fair and proportionate checks when determining whether to provide Mr B with the second loan. I say this because it verified his income, made reasonable estimations of Mr B's likely outgoings when completing an

affordability assessment and the checks showed no signs of any financial distress. I don't think it ought to have done anything further in the circumstances.

Even if Marks and Spencer used the full mortgage figure in its affordability calculation, this would have left Mr B with around £1,390 each month to spend on the new loan repayments and a buffer of funds for emergency unaccounted for spending. I'm satisfied this is a substantial buffer and would likely have given comfort to Marks and Spencer that the second loan was sustainably affordable to Mr B. Because of this, I consider a fair lending decision was made when Marks and Spencer gave Mr B the loan for £12,712.

Other considerations

I note that Mr B says that he was financially vulnerable and Marks and Spencer ought to have acknowledged and acted on this and signposted him to a third party. I'm sorry to hear Mr B was struggling. However, I have not seen anything to suggest that Marks and Spencer either knew this, or ought to have known.

Mr B says he contacted a third party regarding his financial struggles. This third party offered a repayment plan to Marks and Spencer on his behalf. I understand that Mr B feels he was overwhelmed with contact by Marks and Spencer while he was struggling with repayments. He says he notified Marks and Spencer with changes to his address on at least two occasions, but his address was not updated. However, Marks and Spencer has explained it never received this contact and as a result there were problems registering the offer of a repayment plan from the third party. This in turn led to Mr B's account going to a general dialler system, causing him to receive further contact from Marks and Spencer.

I can see that Marks and Spencer made reasonable attempts to contact the third party and Mr B in relation to his accounts. It has also paid Mr B £50 in compensation to acknowledge that there is a possibility he tried to provide his new address. I consider this a reasonable settlement in the circumstances, since it is not clear to me whether Marks and Spencer has done anything wrong, particularly when it had no control over whether or not it would hear back from the third party involved.

In reaching my conclusions, I've also considered whether the lending relationship between Mr B and Marks and Spencer might have been unfair to Mr B under Section 140A of the Consumer Credit Act 1974 ("CCA"). However, for the reasons I've already explained, I'm satisfied that Marks and Spencer did not lend irresponsibly when providing Mr B the loan accounts, or otherwise treat him unfairly in relation to this matter. And I haven't seen anything to suggest that Section 140A CCA would, given the facts of this complaint, lead to a different outcome here.

My final decision

While it'll likely come as a disappointment to Mr B, I won't be upholding his complaint against MARKS AND SPENCER FINANCIAL SERVICES PLC for the reasons explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 May 2026.

Jenny Hiltunen
Ombudsman