

The complaint

Mr and Mrs C complain they were irresponsibly lent a second charge mortgage (secured loan) by Evolution Lending Limited.

What happened

Mr and Mrs C took out a loan with Evolution in 2022. They borrowed around £24,000 (including fees of around £2,850) over a five year term. The interest rate was variable, initially 9.64% giving a monthly payment of £512.

Mr and Mrs C now complain that the lending was irresponsible because it was unaffordable for them. They said they had a poor credit history, relying on repeated debt consolidation, and Evolution shouldn't have lent to them. They said trying to keep up with the loan had caused them stress and ill health and they were seeking debt advice.

Evolution didn't accept that it had lent irresponsibly. It said it had carried out proper checks and found the lending to be affordable. Mr and Mrs C had never missed a payment, and had even asked for further borrowing in late 2023 – showing that they had in practice been able to afford it.

Our investigator thought the complaint should be upheld. He thought that Evolution hadn't taken full account of the evidence in its possession, and it had underestimated Mr and Mrs C's expenditure as a result. He also thought it ought to have been concerned about whether the lending was sustainable given the level of Mr and Mrs C's other debts. Evolution didn't agree and asked for an ombudsman to decide the complaint.

Although overall I agreed with the investigator, some of my reasons were different to his. So I issued a provisional decision to allow the parties a further chance for comment before I make a final decision.

My provisional decision

I said:

“In deciding whether it was responsible to lend, Evolution had to follow the rules of mortgage lending. The rules require it to consider whether the lending was affordable. In deciding that Evolution should obtain evidence of income and information about expenditure – it's entitled to rely on what it was told about expenditure unless there were common sense grounds to doubt it. And it can take into account either actual expenditure or modelled expenditure for households of similar types. It should also verify other credit commitments. Where, as here, the loan was for debt consolidation, Evolution should either have made sure Mr and Mrs C would clear their other debts on completion, or taken those debts into account as part of the affordability assessment.

Evolution obtained payslips, which showed Mr C earned £4,375 per month, with a take home pay of around £2,900. It obtained three payslips showing this (one had a

higher amount, but that included the payment of expenses). Evolution also obtained payslips for Mrs C, which showed variable pay due to out of hours shift allowances – in the three months for which it obtained payslips, her net pay (including allowances) was £2,335, £2,539 and £2,605. Evolution says given the nature of Mrs C's employment it was reasonable to factor in the out of hours allowances as part of her regular income, and it used an average of £2,500 when carrying out the affordability assessment. I agree that was reasonable.

Evolution therefore noted on its income and expenditure document that Mr and Mrs C had combined income of just under £5,565 – using both Mr and Mrs C's salaries, plus child benefit. It found they spent £534 per month on their first charge mortgage.

I've reviewed the income and expenditure document used to underwrite the loan. It's split into the following sections:

- Income
- Mortgage
- Utility bills
- Other essential bills
- Travel
- Insurance
- Non-essential expenditure (primarily items subject to contract such as broadband, mobile phone and TV subscriptions)
- Unsecured credit

There's a breakdown for each section, and a total. In each case, there are two numbers – one for figures declared by Mr and Mrs C in their application, and one for what Evolution was able to verify and used in the calculation.

Finally, there's a summary at the end, which takes the following figures to decide whether the loan was affordable.

- Total income
- Total expenditure (before the payment to this loan)
- Payments to this loan, and stress test increases on the mortgage and Evolution loan payment

However, I've found it difficult to reconcile some of the figures with the totals used in the summary.

For example, in the essential bills section of the expenditure, Evolution records that Mr and Mrs C said they spent £70 per week on food and £1,000 per year on clothing (which is £83.33 per month). It also records that Evolution would apply its minimum policy spending level rather than what Mr and Mrs C actually spent – which is £124.85 per week on food and £5.67 on clothing.

Then at the end of the section, it gives totals. But the totals don't match the individual items. The total Evolution gives for verified expenditure is £912.48 – but that isn't the total of the individual items. That figure can only be obtained by adding both the declared food spending and the notional spending – and the same for clothing. Evolution has taken the declared £70 per week, converted that to £304.15 per month, replaced £304.15 with £124.85 (which is the weekly figure not the monthly figure) and then included both in the total. It's done the same with the clothing.

Looking at the figures Evolution has included for individual items, the correct monthly

“verified” expenditure total is not £912.48, it’s £941.17 (removing the double counting for food and clothing).

There are other errors in the document too. I’ve said above that the income verified was £5,565 – as set out at the beginning of the document, based on both Mr C’s and Mrs C’s salaries, plus child benefit. However, the summary at the end of the document – on which the lending decision was based – used income of £5,637. So the final affordability calculation over-estimated their income by around £80 per month.

Having reviewed the individual figures Evolution classed as “verified” in the income and expenditure, I think the correct totals for each category are:

- Income - £5,564.60
- Mortgage - £534
- Utility bills and other essential bills - £941.17
- Travel - £205.19
- Insurance - £110.18
- Non-essential expenditure – £398.55
- Unsecured credit - £3,212.01

That makes total income £5,564.60 and total expenditure £5,372.41. Removing expenditure on debts to be consolidated brings that down to £4,882.48 – a difference between income and expenditure of £682.12.

The Evolution monthly payment was £512, and Evolution then calculated stress test increases on the mortgage and Evolution payments of £142.34. Therefore the final difference between income and stress-tested expenditure was £27.78 per month.

Even if Evolution was correct in only taking into account the expenditure it did, I don’t consider this shows that the loan was affordable. The gap between income and expenditure was less than 1% of Mr and Mrs C’s income and leaves no margin for error or provision for unexpected expenses or emergencies. It doesn’t show that they would be able to repay the loan in a sustainable way.

And I’m not persuaded that Evolution did act fairly in some of the assumptions and decisions it made. For example, I’ve said above that it disregarded what Mr and Mrs C said they spent on clothes each year (£1,000) and replaced that with a notional amount of £5.67 (it’s not entirely clear whether that is intended to be per week or per month). Firms can use modelled expenditure rather than actual expenditure – but where there is an actual figure, as here, I don’t think it was fair and reasonable to disregard that and replace it with one much lower. £5.67 per month or even per week seems low for a reasonable budget for clothing for a family of four including two children. While Evolution was entitled in principle to rely on modelled rather than actual expenditure, in my view it wasn’t fair and reasonable to do so where it knew the actual expenditure was higher. Using the actual figure rather than the modelled figure – whether weekly or monthly – wipes out the entirety of the surplus of income over expenditure on its own.

In addition, Mr and Mrs C had a larger number of unsecured debts, only some of which were consolidated by this lending. Between them, they had eleven unsecured loans, seven credit cards, five mail order or similar accounts, and a hire purchase agreement. Some of these were taken out in the months leading up to the Evolution loan. Evolution also had a copy of Mr and Mrs C’s most recent bank statement. Although not all expenditure on that statement was of the type that needed to be

included in an affordability assessment, I think the overall picture shown by that statement, and also Mr and Mrs C's credit history and patterns of spending, was that Mr and Mrs C were living beyond their means and dependent on credit. This loan only consolidated a small part of their overall indebtedness. I think Evolution ought, acting fairly, to have questioned whether it was sustainable for them.

I also note that Evolution carried out stress tests on the mortgage and Evolution loan – but it applied the stress test to the current interest rate, not (as the guidance in force at the time said) to the reversion rate. I don't need to make a definite finding about whether this was reasonable or not in light of my findings above that the loan was not affordable or sustainable even on the figures Evolution used.

Evolution says Mr and Mrs C haven't missed any payments. I've taken that into account. But they've said that keeping up with the loan has caused them significant difficulties and had an impact on them. And I bear in mind that for a loan to be affordable, it has to be repayable in a sustainable way, taking into account their wider circumstances.

Overall, I'm not persuaded that Evolution made a fair and reasonable lending decision in this case. Based on the figures it used in its own assessment (correctly calculated), I don't think it could reasonably have concluded the loan was affordable. I think some of those figures underestimated Mr and Mrs C's actual expenditure. And I think there was good evidence that ought to have led Evolution to have concluded the loan wasn't affordable or sustainable. For those reasons, I intend to uphold this complaint.

Putting things right

To put things right, Evolution should recalculate the loan balance to remove all interest and fees, and apply all payments Mr and Mrs C have made to reducing the capital balance. If, having done so, there remains an outstanding balance then Evolution should come to an affordable arrangement with Mr and Mrs C for repayment, and may retain the charge over their property until it is repaid. If, however, the re-calculation means that Mr and Mrs C have now paid more than the capital they borrowed then Evolution should refund the overpayments to them, adding simple annual interest of 8% running from the date of each overpayment to the date it is refunded. If that is the case, it may deduct income tax from the 8% interest element of my award, but should give Mr and Mrs C a tax deduction certificate."

Mr and Mrs C accepted my provisional decision. Evolution didn't. It said:

- It acknowledged its income and expenditure document was confusingly set out. In some places figures that appeared to replace other figures were actually in addition to, not instead of, them. It used the minimum modelled expenditure figures for food and clothing, which were both higher than the figures declared by Mr and Mrs C.

It said it used the following figures:

- Income - £5,564.60
- Mortgage - £534.19
- Utility bills and other essential bills - £912.48
- Travel - £205.19
- Insurance - £110.18
- Non-essential expenditure – £398.55

- Unsecured credit - £3,212.01, of which £2,634.28 was left unconsolidated.
 - Stress tests - £142.36
- This meant, after consolidation, the expenditure was £4,937.23. After factoring in the Evolution monthly payment, this left a surplus of £114.74.
 - Based on that, Evolution asked that I reconsider 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.

I'm grateful to Evolution for clarifying the figures used in its affordability assessment. Based on what it now says, and the revised and clarified document it provided, I now agree that the figures it used in its affordability assessment were mathematically correct.

However, I'm still not persuaded that the lending was responsible in all the circumstances. In order to lend responsibly, Evolution needs to show that the lending was affordable and that Mr and Mrs C could repay it in a sustainable way. That means not just that income must exceed expenditure; that the loan is mathematically affordable. It means that Mr and Mrs C must be able to repay the loan in a sustainable way, taking into account their other commitments and circumstances.

Although I now agree that Evolution correctly calculated the figures it used, I'm still not persuaded that it fairly considered their expenditure. In particular, as I noted in my provisional decision, it calculated the stress test figure for Mr and Mrs C's first charge mortgage based on their current interest rate not the reversion rate. At the time, the relevant guidance referred to in the mortgage rules was that the reversion rate should be used. Although it was guidance, it was in my view authoritative and persuasive. If it didn't follow the guidance I would expect Evolution to explain why. But it didn't address this point at all in its response to my provisional decision. Applying the stress test to the reversion rate not the current rate would significantly increase the stress test figure that Evolution ought, acting fairly, to have used.

I also said in my provisional decision that I thought Evolution ought to have been concerned about the impact of the debts that Mr and Mrs C left unconsolidated by this lending. As I said,

“Mr and Mrs C had a larger number of unsecured debts, only some of which were consolidated by this lending. Between them, they had eleven unsecured loans, seven credit cards, five mail order or similar accounts, and a hire purchase agreement. Some of these were taken out in the months leading up to the Evolution loan. Evolution also had a copy of Mr and Mrs C's most recent bank statement. Although not all expenditure on that statement was of the type that needed to be included in an affordability assessment, I think the overall picture shown by that statement, and also Mr and Mrs C's credit history and patterns of spending, was that Mr and Mrs C were living beyond their means and dependent on credit. This loan only consolidated a small part of their overall indebtedness. I think Evolution ought, acting fairly, to have questioned whether it was sustainable for them.”

Again, Evolution didn't address this point in its response to my provisional decision.

Overall, therefore, I haven't changed my mind about the fair outcome to this complaint. I've

reviewed the corrected income and expenditure figures Evolution has now provided. But even based on those correct figures Mr and Mrs C were left with a relatively small monthly surplus that didn't allow for emergencies or significant one-off expenditure that may arise. And that surplus was based on Mrs C's average income – her payslips showed that it was rather less in some months, leaving little or no surplus. Evolution also used too low a figure for the first charge mortgage stress test. Taking all that into account, and taking into account their wider circumstances and the sustainability of the lending, I'm still not persuaded the lending was responsible.

Putting things right

To put things right, Evolution should recalculate the loan balance to remove all interest and fees, and apply all payments Mr and Mrs C have made to reducing the capital balance. If, having done so, there remains an outstanding balance then Evolution should come to an affordable arrangement with Mr and Mrs C for repayment, and may retain the charge over their property until it is repaid. If, however, the re-calculation means that Mr and Mrs C have now paid more than the capital they borrowed then Evolution should refund the overpayments to them, adding simple annual interest of 8% running from the date of each overpayment to the date it is refunded. If that is the case, it may deduct income tax from the 8% interest element of my award, but should give Mr and Mrs C a tax deduction certificate.

My final decision

My final decision is that I uphold this complaint and direct Evolution Lending Limited to put matters right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs C to accept or reject my decision before 11 March 2026.

Simon Pugh
Ombudsman