

## The complaint

Mr T complains that Brent Shine Credit Union Limited (BSCU), irresponsibly lent to him when it provided him with a loan for £2,000.

## What happened

I set out the background to this complaint and my initial findings in my provisional decision dated 28 November 2023 (below)

### *What happened*

*Mr T applied, and was accepted, for a loan with BSCU on 4 October 2022. The loan was for £2,000 over a period of twelve months, with a monthly repayment of £190.53.*

*He said it was irresponsible of BSCU to have provided him with the loan because if they had completed fuller checks, they would have seen he was becoming dependent on credit and was heavily gambling with money he'd borrowed. To put things right Mr T would like BSCU to refund any interest he has paid on the loan and to remove any adverse information relating to the loan from his credit file.*

*Following Mr T's complaint, BSCU wrote to him with a final response letter, outlining why they wouldn't be upholding his complaint. They said they had carried out sufficient checks which showed the loan was affordable.*

*Mr T remained unhappy with the response from BSCU and so brought his complaint to this service. Our Investigator reviewed the complaint and thought it should be upheld. In summary she said:*

*She felt the initial checks BSCU were proportionate based on the term and cost of the loan, but the information seen in the checks should have prompted further checks. She said she could see multiple loans and credit cards being taken out in the months prior to the loan and this should have triggered more checks by BSCU. Had they done these checks they would have seen Mr T was struggling financially. His statements show he is regularly gambling, and this takes him into an unarranged overdraft. They also show that in September 2022 Mr T took a pay day loan, and his direct debit for his car loan was returned unpaid twice within that month.*

*She asked BSCU to refund any interest Mr T had paid towards this loan and remove any adverse information about it that had been recorded on his credit file.*

*Mr T agreed with the Investigator's findings. BSCU did not, they said:*

*The credit report the Investigator had relied on, which was more recent, and the one they had obtained at the time showed Mr T had opened two credit accounts in the three months prior to his application to them. And they didn't think this was enough to prompt them to have carried out further checks, they also said that when Mr T applied for the loan, he had said it was for debt consolidation and so it should have*

*been used to reduce his other borrowing.*

*The matter has now been passed to me to decide.*

### ***What I've provisionally 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 realise that I've summarised this complaint in less detail than the parties and I've done so using my own words. I've concentrated on what I consider to be the key issues. The rules that govern this service allow me to do so. But this doesn't mean that I've not considered everything that both parties have given to me. As I've already indicated above, having done so, I'm not intending to uphold this complaint. I'll explain why.*

*We've set out our general approach to complaints about unaffordable/irresponsible lending – including all the relevant rules, guidance and good industry practice – on our website, which I've followed.*

*Considering the relevant rules, guidance and good industry practice, I think the questions I need to consider in deciding what's fair and reasonable in the circumstances of Mr T's loan are:*

- Did BSCU complete reasonable and proportionate checks to satisfy themselves that Mr T would be able to make repayments to the loan in a sustainable way?*
  - If so, did they make a fair lending decision?*
  - If not, would those checks have shown that Mr T would have been able to do so?*

*The rules and regulations in place required BSCU to carry out a reasonable and proportionate assessment of Mr T's ability to make the repayments under the loan agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".*

*It had to be "borrower focused" – so BSCU had to think about whether repaying the loan would be sustainable. In practice this meant that BSCU had to ensure that making the repayments on the loan wouldn't cause Mr T undue difficulty or significant adverse consequences. That means he should have been able to meet repayments out of normal income without having to borrow to meet the repayments, without failing to make any other payments he had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on his financial situation.*

*In other words, it wasn't enough for BSCU to simply think about the likelihood of them getting their money back – they had to consider the impact of the loan repayments on Mr T. Checks also had to be "proportionate" to the specific circumstances of the loan application.*

*In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g., their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount/cost of credit they*

are seeking. Even for the same customer a proportionate check could look different for different applications. I think that such a check ought generally to have been more thorough:

- The lower a consumer's income (reflecting it could be more difficult to make any loan repayments to a given loan amount from a lower-level income);
- The higher the amount due to be repaid (reflecting it could be more difficult to meet a higher repayment from a particular level of income);
- The longer the term of the loan (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make payments for an extended period); and
- The greater the number and frequency of loans, and the longer the period during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may also be other factors which could influence how detailed a proportionate check should be for a given lending application - including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances.

Taking all of this into account I think the checks BSCU carried out were proportionate. I say this because:

Mr T's income wasn't particularly low – he had on application stated it was £42,000 per year, this was verified by BSCU through the CATO (current account turn over) check it completed provided by a credit reference agency. This means Mr T would have a monthly take home salary of around £2,700.

In comparison to Mr T's income the monthly payment amount for the loan, didn't on face value, appear to pose any affordability problems. BSCU calculated Mr T's credit commitments as follows:

- Mr T had a joint mortgage, his monthly contribution to this was calculated to be £350.
- Other monthly credit commitments £834

This would leave him around £1500 per month towards his household bills and groceries and to pay the new loan. So, I don't think this would have prompted further checks at this stage.

The term of the loan was twelve months, which seems reasonable for a loan of the amount Mr T was borrowing. At the time of the application the credit file showed that Mr T had opened two accounts in the three months prior to his application with BSCU. But I don't think that necessarily is a trigger for further checks. I say this because BSCU could see, at the time of the application, from what was displayed on the credit file: Mr T had no missed payments on any accounts. He wasn't consistently up to his overdraft limit and hadn't been beyond it in the previous six months. He wasn't even close to the limits on his existing borrowing. So, I don't think there was anything contained in the credit report that would have indicated, at that time, that Mr T was becoming reliant on credit.

*I appreciate from seeing Mr T's statements that when he applied for the loan with BSCU things had begun to spiral and he was starting to become reliant on credit, but at that time those things weren't evident for BSCU to see as they hadn't yet been reported to his credit file.*

*Based on the above, I think the checks BSCU did carry out were proportionate and I don't think what they saw would have prompted further checks. So I'm satisfied that based on what they could see, BSCU made a fair decision to lend to Mr T.*

*I know this outcome will be disappointing to Mr T, but give everything I've said above, I won't be asking BSCU to do anything to resolve his complaint with them.*

### **My provisional decision**

*For the reasons set out above, I'm not currently intending to uphold this complaint.*

I invited both parties to let me have anything in response they thought was relevant.

BSCU didn't put forward any further representations.

Mr T responded disagreeing with my provisional findings, I've summarised what I consider to be his main points, from his response, below in my own words,

- Although he earns £42,000 per year, he doesn't receive £2,700 monthly into his account as he has commitments through work that are deducted from his salary
- In the months prior to the loan being taken his outgoings were considerably higher than his income and this should have been evident from his credit file
- In September his car loan bounced twice, and this should have indicated to BSCU his financial position was poor
- He regularly exceeded his overdraft facility in the time preceding the loan
- He took a loan with another lender (M) in September 2022, just one month earlier than this loan – indicating he was becoming reliant on finance.

### **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've thought very carefully about the points Mr T has raised before reaching this decision.

The £2,700 as a monthly salary mentioned in my provisional decision, is derived working out what a normal take home pay would be for this annual salary after deductions of income tax and national insurance. I appreciate that Mr T may not see this amount in reality, as he has explained his employer makes deductions for other commitments, he has with them. When BSCU verified Mr T's income they used a credit reference agency tool called CATO – Credit Account Turn Over. As the name suggests this looked at the turnover of money going into Mr T's account over the three months prior to the loan. It then assessed if the amount going into his account is in line with what would be expected from the salary he had declared. The check was a positive one. I accept that not all of the money going into Mr T's account was from his salary, but that wouldn't have been evident to BSCU at the time, to prompt further checks.

What I need to look at is should the information BSCU had available to them at the time of the application prompted them to do more thorough checks before lending. And I don't think the information on the credit file would have done this. I say this because I've looked at the checks carried out by BSCU and the copy of Mr T's credit file he provided. Having done so:

- I can't see there were any indications that his outgoings were higher than his income.
- His car loan company hadn't reported that his instalment had bounced in September and looking at the report now, it still shows the payments as all having been met on time. Although I know having seen Mr T's bank statements what he has said is true and this wasn't the case.
- Likewise, his bank has never reported on his credit file that he has exceeded his overdraft limit – this could be because it was brought back into line very quickly or for an unknown reason. But whatever the reason it means that this information wasn't evident to BSCU at the time of the application.
- And finally, Mr T says he took a loan with M in September 2022 – just one month before applying for the BSCU loan. I can see there was a hard search carried out by M in September 2022, but no loan is showing on his credit file as beginning in September 2022. So, I can't fairly say BSCU would have been aware of this either.

I understand that if BSCU had asked for Mr T's bank statements they would have seen a different picture, and that in hindsight the loan likely wasn't affordable. But what I'm deciding here is if BSCU's checks were proportionate at the time – without the benefit of hindsight. This means was there something in the information they had available to them at the time that should have prompted a request to see Mr T's statements or carry out more in-depth checks. Given what I've explained above, I can't say there was. And so, I won't be departing from my provisional decision, that BSCU made a fair decision to lend to Mr T at the time.

I fully appreciate Mr T's strength of feeling about this and accept he will be disappointed with this outcome. But my decision ends what we – in trying to resolve his dispute with BSCU – can do for him.

### **My final decision**

For the reasons set out above, 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 T to accept or reject my decision before 5 March 2024.

Amber Mortimer  
**Ombudsman**