

## The complaint

Mr M complains that the loan he had from Shawbrook Bank Limited was unaffordable to him.

## What happened

Mr M had one loan with Shawbrook in July 2022 as follows:

<u>Loan</u>	<u>Date</u>	<u>Amount</u>	<u>Term</u>	<u>Repayment</u>
1	11 Jul 2022	£9,000	36m	£343.87

Mr M says that he had taken out several loans prior to this one and Shawbrook didn't carry out appropriate checks for affordability. He said he was using one loan to repay another and is now struggling to make the repayments.

Shawbrook says it asked Mr M about his employment and his income and checked his credit file. It said Mr M's existing debt was within acceptable thresholds and there was no negative information on the file. Shawbrook adds that all his loan repayments have been on time.

Our investigator recommended the complaint should be upheld. She found that the information that Shawbrook had collected indicated that Mr M was already over-indebted, and that further borrowing was not sustainable.

Shawbrook responded to say, in summary, that Mr M was up to date with repayments on his loan account and there was no evidence he was making them using other borrowing. It said that, although he had multiple credit cards, these were not fully utilised and his debt to income ratio was at an acceptable level. Shawbrook added that its calculations showed Mr M had in excess of £2,500 per month to cover his other living expenses and maintained it made a fair lending 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 need to take into account the relevant rules, guidance and good industry practice, as outlined on our website.

Bearing this in mind, in coming to a decision on Mr M's case, I've considered the following:

- Did Shawbrook complete reasonable and proportionate checks when assessing Mr M's application to satisfy itself that he'd be able to sustainably repay the loan?
  - If not, what would reasonable and proportionate checks have shown?

- Did Shawbrook make a fair lending decision?
- Did Shawbrook act unfairly or unreasonably in some other way?

When Mr M applied for the loan, I've seen evidence to show Shawbrook asked about his financial circumstances, checked his credit file and verified his income. However, I'm not satisfied that these checks went far enough because:

- The loan was for a period of 36 months and Shawbrook needed to ensure the repayments were sustainable over that period;
- Mr M was already committed to spending over 31% of his income on credit commitments – this rose to almost 40% with the new loan;
  - He'd recently taken out two loans - £9,000 in May and £10,000 in February;
- Although Shawbrook calculated Mr M had over £2,500 for living expenses after his credit commitments, I can't see it had any further information about those.

As Shawbrook's affordability calculations included very limited information on expenditure, and Mr M's potential credit commitments were as much as 40% of his income, I find proportionate checks should have included Shawbrook getting a better understanding of Mr M's financial situation, especially given the recent lending.

I've looked at Mr M's bank statements from the relevant period of time, as a reasonable proxy for what proportionate checks may have shown. These show:

- Mr M's income from his self-employed work was variable but was roughly in line with the figure Shawbrook used (£4,379), including working tax credits and child benefit;
- Regular business-related expenditure on the premises rental, a loan, utilities and trade membership came to around £870;
  - There were further weekly staff-related payments, totalling £1,800 per month, but the last payment was in early June;
- There were additional business related costs in the lead up to the loan on:
  - Parts - £2,200 in May 2022 and a further £656 was paid at the end of July – an average of £950 per month;
  - Tyres – £516 was paid prior to the loan – about £170 per month;
  - Accountancy:
    - £592 was paid for the annual tax return - £50 per month;
    - Around £120 per month was spent for payroll management;
  - Employee contributions averaged £490 per month;
- Regular household monthly standing orders and direct debits came to £850;
- Loan repayments were £983 – including a monthly standing order of £450 for a loan in Mr M's wife's name;
- Minimum credit card commitments were £846;

Given that Mr M spent roughly £2,650 of his income on business-related expenses, he was left with around £1,730 for household expenditure – £100 less than his total credit commitments of £1,830. Once the money he required for regular household expenditure, food and petrol was factored in, Mr M clearly had a significant deficit each month.

As Mr M says he had four dependent children at the time, I find it likely that Mr M had taken the two recent loans to try to make up the ongoing shortfall. I acknowledge that Shawbrook says Mr M told it the money was for house improvements, but I'm satisfied that, had it carried out proportionate checks, it would have found that further lending was unaffordable for him.

So, taking everything into account, I find that the new lending was unsustainable for Mr M and Shawbrook was irresponsible to have approved the loan application, although I can't see it acted unfairly or unreasonably in any other way.

### **My final decision**

My decision is that I uphold this complaint. Shawbrook Bank Limited should:

- Add up the total amount of money Mr M received as a result of having been given the loan. The repayments Mr M made should be deducted from this amount.
  - If this results in Mr M having paid more than he received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement)\*;
  - If any capital balance remains outstanding, then Shawbrook should attempt to arrange an affordable and suitable payment plan with Mr M;
- Remove any negative information recorded on Mr M's credit file relating to this loan once any remaining capital has been repaid.

\*HM Revenue & Customs requires Shawbrook to deduct tax from this interest. Shawbrook should give Mr M a certificate showing how much tax it's deducted if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 5 April 2024.

Amanda Williams  
**Ombudsman**