

Complaint

Mr G has complained about a personal loan Shawbrook Bank Limited (“Shawbrook”) provided to him. He says that proportionate checks weren’t carried out and he was provided with an unaffordable loan as a result.

Background

Shawbrook provided Mr G with a loan for £12,000.00 in October 2022. This loan had an APR of 16.9% and the total amount to be repaid of £17,400.60, which included interest fees and charges of £5,400.60, was due to be repaid in 60 monthly instalments of £290.01.

One of our investigators reviewed what Mr G and Shawbrook had told us. He thought that Shawbrook hadn’t treated Mr G unfairly and so he didn’t recommend that the complaint be upheld.

Mr G disagreed and asked for an ombudsman to review his complaint.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Mr G’s complaint.

Having carefully considered everything, I’ve decided not to uphold Mr G’s complaint. I’ll explain why in a little more detail.

Shawbrook needed to make sure that it didn’t lend irresponsibly. In practice, what this means is Shawbrook needed to carry out proportionate checks to be able to understand whether Mr G could afford to repay before providing this loan.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower’s income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we’d expect a lender to be able to show that it didn’t continue to lend to a customer irresponsibly.

Shawbrook says it agreed to Mr G’s application after he provided details of his monthly income and some information on his expenditure. It says it also carried out credit checks on Mr G which showed he had some existing unsecured debts but this wasn’t excessive in comparison to his income.

In Shawbrook's view all of the information it gathered showed that Mr G could afford to make the repayments he was committing to.

On the other hand, Mr G has said that Shawbrook didn't carry out any checks and he couldn't afford this loan.

I've carefully thought about what Mr G and Shawbrook have said.

The first thing for me to say is that Shawbrook has provided the details of its credit searches. Shawbrook having carried out credit checks shows that it didn't simply rely on what Mr G said and that it took some steps to check at least some of the information he provided in his application.

Shawbrook searches appeared to show that Mr G's debt total at the time of the applications was also reasonable in comparison to what was declared as his income. And I can't see that he had any significant adverse information recorded against him.

Mr G says that Shawbrook didn't carry out open banking checks, request his bank statements, or payslips to verify his income. However, it isn't a requirement for a firm to do any of these things when assessing the affordability of a loan. It is up to a lender to decide the checks that it wishes to carry out.

Shawbrook says that it cross-checked Mr G's declaration of income against his declared occupation. This to me seems to me to be a case of cross-checking a declaration made by a customer against another declaration they've made. I don't think that this necessarily gives a lender a realistic idea of what a consumer may earn.

Bearing in mind the amount being lent as well as the term, I would have expected Shawbrook to have found out more about Mr G's actual income as well as his actual living expenses. As Shawbrook has been unable to evidence having done this in this instance, I don't think that the checks it carried out before it provided this credit card were reasonable and proportionate.

At this point and given Mr G's response to our investigator, I think that it is important for me to explain that if we don't think that the lender did enough to establish whether the repayments to an agreement was affordable, this doesn't on its own mean that a complaint should be upheld.

Indeed we would usually only go on to uphold a complaint in circumstances where we were able to recreate what reasonable and proportionate checks are likely to have shown – typically using information from the consumer – and this clearly shows that the repayments in question were unaffordable.

I've therefore used the information provided now in order to work out whether Shawbrook knowing about Mr G's actual income and his living costs is likely to have shown that the payments required were unaffordable. Having done this, I've not seen anything to indicate that Shawbrook would have concluded that Mr G's actual income and living costs – rather than the assumptions it used in its affordability assessment – meant the payments to this loan were unaffordable.

I accept that Mr G's actual circumstances at the time may have been different from what the information he's provided now shows. However, given it's only fair and reasonable for me to uphold a complaint in circumstances where proportionate checks will have shown a lender that the payments were unaffordable, I can only rely on what the information provided actually shows.

I've also seen that Mr G has queried how it is possible for us not to uphold this complaint when he's already had separate complaints upheld. I can understand why Mr G might find it strange that he's received different outcomes on complaints which he perceives to be materially the same.

But it's important for me to explain that we consider complaints on an individual basis and looking at the individual circumstances. As I've already explained, what will constitute a proportionate check will very much depend on the particular circumstances of the individual application. A proportionate check, even for the same customer, could look different for different applications.

Furthermore, I'm not bound by the outcomes reached by other case handlers on different cases. Ultimately, I'm required to consider the facts of a case and reach my own conclusion. So the outcomes on Mr G's other case cannot and do not bind me into reaching the same conclusion on this case. That said, consistency is important and with a view to providing some clarity and reassurance to Mr G, it might help for me to explain that there are some key differences between this complaint and Mr G's other one.

Having looked at Mr G's other upheld cases, I can see that these were about loans taken out after this one. So Mr G will have owed more at the time of those applications than he did at the time of this one. These differing facts not only impacted on what the lenders in Mr G's other cases did do and what it would have been proportionate for them to do, it also impacted on what they would likely have found out about Mr G at those times.

In this case, I've already explained what proportionate checks are likely to have required, what they are likely to have shown and most importantly why this is unlikely to have shown the loan payments to be unaffordable, or prevented Shawbrook from lending to Mr G.

As this is the case, while I'm not required to replicate the outcomes reached by our other case handlers, nonetheless I don't consider that my answer here is incompatible or inconsistent with the one Mr G received on his other cases, notwithstanding the differing outcomes.

In reaching my conclusions, I've also considered whether the lending relationship between Shawbrook and Mr G might have been unfair to Mr G under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Shawbrook irresponsibly lent to Mr G or otherwise treated him unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here.

So overall and having considered everything, I don't think that Shawbrook treated Mr G unfairly or unreasonably when providing him with his loan. And I'm not upholding Mr G's complaint. I appreciate this is likely to be very disappointing for Mr G. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Mr G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 13 January 2025.

Jeshen Narayanan
Ombudsman