

The complaint

Mrs M complains that loans sold to her by NRAM Limited in 2006 and 2007 were unaffordable and it didn't correctly assess affordability at the time they were sold.

What happened

In 2006 Mrs M took a personal loan with NRAM for £25,000. Under the terms of the loan, she was due to repay it making monthly payments of approximately £273 over 120 months. She took another personal loan with NRAM for approximately £1,000 in 2007. That loan was to be repaid by making monthly payments of approximately £22 for 120 months.

Mrs M says, around the time she took the loans she had spiralling debt and a total of 32 loans and credit cards. And she borrowed in an attempt to manage her debt situation. She also says she suffers with her mental health and was in an abusive and controlling marriage at that time. She says her circumstances led to an inability to manage her financial situation or make complaints to lenders.

In 2016 Mrs M divorced her husband, sold her house and paid-off the NRAM loans. However, she says she was left with nothing as all the equity from the sale was used to repay her debts.

Mrs M complained that NRAM didn't assess affordability adequately in a letter dated 1 June 2021, to the business she understood to be responsible for the sales. She was redirected a number of times and NRAM has taken responsibility for the sales. But it hasn't consented to us considering the merits of Mrs M's complaint because it thinks she did so too late – outside the time limits explained in the Financial Conduct Authority's (FCA's) dispute resolution rules. NRAM explained that in its final response letter dated 24 July 2022, though it should be noted that response only appears to address the sale in 2006. I've not been provided with a final response letter addressing the 2007 sale.

Dissatisfied with NRAM's response, Mrs M asked us to consider her complaint. I decided that we do have the power to consider Mrs M's complaint – that it wasn't out of time according to the rules under which we operate. And, despite Mrs M not originally complaining about the mis-sale of the second loan – in 2007 – I'm assuming NRAM is happy for me to consider that, given that, at our request, it has provided information about the sale of that loan.

The transaction statements available indicate that Mrs M didn't miss payments and redeemed both loans early with lump sums, in approximately 2015.

After I decided we have the power to consider the merits of Mrs M's complaint, our investigator proceeded to do so. From the information available, she didn't think NRAM had mis-sold Mrs M's loans, so she didn't uphold Mrs M's complaint. Our investigator explained she had considered the Consumer Credit Act (CCA) and the Office of Fair Trading (OFT) guidance to assess whether the evidence indicated NRAM had assessed affordability as it should have done. Having done so, she thought NRAM hadn't done anything wrong.

Mrs M didn't agree and asked for her complaint to be reviewed by an ombudsman. So, her complaint has been referred to me for a 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.

To decide Mrs M's complaint, I've considered whether the evidence available indicates that NRAM carried out proportionate checks to establish affordability – meaning checks with the amount borrowed and the contractual monthly payment in mind.

At the time Mrs M took out both loans there wasn't a set list of checks a lender had to complete. For the level of commitment Mrs M was undertaking in respect of the 2006 loan I think it would have been reasonable to have expected NRAM to conduct a credit check, or something similar, to establish whether Mrs M had experienced difficulty with the repayment of credit relatively recently. And I would expect NRAM to have considered Mrs M's income and expenditure as well as factoring-in any foreseeable changes to income and expenditure, such as retirement. Had those checks given cause for concern, it may have been appropriate to conduct additional checks or to have declined the application. The 2007 loan represented a much smaller commitment so a good payment record for the 2006 loan may have been sufficient, along with a credit check, to ensure Mrs M wasn't running into difficulty elsewhere.

While I have decided that this complaint was made in time – that we do have the power to consider its merits – I am mindful that the evidence available may not be as complete as that of a more recent loan sale. So, in some instances, the evidence may indicate that NRAM was likely to have considered an aspect of affordability, rather than demonstrate that it did. Equally, evidence may indicate that NRAM ought to have had cause for concern regarding affordability.

NRAM has provided copies of bank statements and pay slips it considered in respect of the 2006 loan. The payslips appear to cover a three-month period and the bank statements cover a two-month period – December 2005 and January 2006. So that indicates that NRAM did consider income and expenditure – the payslips show regular employed income, and the bank statements give a relatively reliable view of expenditure.

The bank statements – albeit for a joint account with her then husband – do show that Mrs M used her arranged overdraft facility but, during those months, was not up to her overdraft limit. The bank statements also indicate that Mrs M made regular payments to other financial institutions, some of which appear to have been in respect of payments for other credit. It's my understanding from the application, and I think it also would have been NRAM's understanding, that a significant amount of the loan in 2006 was to repay – consolidate – much of that other credit. So, I think it's likely that NRAM would have taken that into account when deciding whether the 2006 loan would be affordable. And deducted those commitments from the I&E when considering affordability of the loan overall moving forward.

NRAM's record of the application also refer to various data scores, specifically in relation to defaults and collections. I think that indicates that it conducted a credit file check with a view to assessing Mrs M's credit payment history. There's also an indication that it checked for county court judgements and found that there were none.

With regard to the sale of the additional loan in 2007, I think it would have been reasonable for NRAM to assess affordability less stringently. I say that because it had relatively recently assessed income and expenditure and the amount borrowed – along with the contractual monthly repayments – was much less than the original loan. So, I think a good track record of payments for the 2006 loan - £273 per month – would indicate that a further £22 per month was likely to be affordable.

Overall, I think the checks NRAM appear to have carried out were adequate, so I think it's likely that NRAM satisfied itself fairly that the loan in 2006 was affordable. I've also noted that the loan started in 2006, when Mrs M was approximately 42 years of age, and had a term of 10 years, so was due to end when Mrs M was 52. So, I don't think NRAM needed to be concerned about a drop in income due to retirement during the term. And I haven't seen any evidence to indicate that it was foreseeable that Mrs M's income was likely to decrease for another reason within the term of the loan.

Mrs M has explained at length her health concerns, – which I won't go into here – that she was in an abusive relationship around the time of taking the loans, and that she's been the victim of financial scams. I have thought carefully about all that she's said. I can't begin to understand what she's been through and the effect her experiences have had on her. However, I haven't seen any evidence to indicate that NRAM should have been aware of her personal circumstances. And I haven't seen anything to make me think NRAM could have been prompted to make enquiries in that regard, so as to include any such information in its lending decision. That means, while I am sorry that Mrs M has been through all that she has, I don't think those circumstances should have a bearing on the outcome of this case.

As I think NRAM appears to have carried out reasonable checks to assess affordability of both loans, I don't uphold her complaint.

My final decision

My final decision is I don't uphold Mrs M's complaint about NRAM Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 3 November 2023.

Gavin Cook
Ombudsman