

The complaint

Mr M brings this complaint in his capacity as director of a limited company that I will call S, with the consent of his co-director. Mr M says that State Bank of India (UK) Limited ("SBI") unfairly declined a loan to the company. Mr M would like SBI to compensate the company for loss of opportunity.

What happened

I will summarise the complaint in less detail than it's been presented. There are several reasons for this. First of all, the history of the matter is set out in detail in correspondence, so there is no need for me to repeat the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Mr M or S being identified. I will instead concentrate on giving the reasons for my decision.

Briefly, in 2022 S applied for a loan with SBI, which progressed to underwriting stage. The loan application was then declined. SBI explained that this was because the company's accounts showed that in 2021 the company's accounts were showing a loss, because turnover was just over £46,000 but administrative expenses were around £47,600, resulting in an operating loss of just over £1,600. SBI raised queries about this, but wasn't satisfied that there would be sufficient income generated by S to support the loan.

It was also noted that a net profit shown in the accounts was in relation to adding a gain of £65,000 on revaluation of investments, rather than income generated by S. The underwriters said:

"Prior to moving the case to fee paid our understanding was that there would not be an increase in admin expenses in year 2021 as it was previously mentioned the admin expenses for 2020 were discretionary expenses. The financial statement for 2020 showed a profit which calculated with salary met our income criteria, however, the financial statement for 2021 show that admin fees have increased to £47,664 resulting in operating loss in business.

The profit referred to in 2021 financial statement includes the gain of revaluation of investment figures – which the Bank doesn't consider under retained profit assessment."

Given this, SBI wasn't able to proceed with the application. Mr M challenged this, but SBI wouldn't change its decision. SBI clarified that, prior to receiving the 2021 accounts, SBI had initially used S's financial statements and Mr M's salary from 2020 to calculate that income requirements for the loan were met.

However, the figures for 2021 were not as SBI had expected, showing increased administrative expenses and that Mr M's salary was insufficient to support the loan.

Mr M said there was a discretionary £33,000 in management fees which, when added back, provided sufficient profitability. However, SBI noted that Mr M was not in receipt of any

income in the form of management fees, and the bank had been told that he had no self-employed income.

As a result, SBI wasn't able to change its decision. Mr M raised a complaint, but SBI didn't uphold it. Mr M, on behalf of S, raised the complaint with our service. An investigator looked at what had happened but was satisfied that SBI had given fair consideration to the application, but as it didn't meet lending policy, the bank was entitled to decline it.

Mr M didn't agree with the investigator. He said that he'd specifically applied for a loan that didn't require any income requirements, and that before the application was submitted, SBI didn't mention there were any such requirements. He also knew that SBI was aware that he wasn't able to provide audited accounts for S.

The investigator wasn't persuaded to change his opinion. He said it was standard for banks to have an income and affordability assessment before granting a loan application. He remained of the opinion that SBI had not made any error or acted unfairly.

Mr M asked for an ombudsman to review the complaint.

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.

Having done so, I'm not upholding the complaint. These are my reasons.

The crux of Mr M's complaint is that he believed there was no income criteria for the application. Despite this, the application was declined on the basis of insufficient income, which Mr M believes is an error by SBI.

SBI's documentation does not suggest that the bank told Mr M that it would not require any evidence to show that S would have sufficient income to service the loan. Indeed, this would make no sense, because one of the most important criterion for a loan application is that the applicant is able to demonstrate that they will be able to afford the repayments. Lending where there is no (or insufficient) income is considered irresponsible, as this would place the borrower in a position of having an unaffordable loan from the outset. As a result, SBI was, I find, entitled to assess whether S had sufficient income to service the loan it was asking the bank to make.

SBI is entitled to set its own lending criteria. Decisions that SBI makes in respect of what those criteria are, its attitude to risk involved in this particular lending assessment, and whether it should lend and if so, on what terms are clearly discretionary matters for SBI's own commercial judgement that I would not generally interfere with.

SBI has provided information about its lending criteria and about what was taken into account in its consideration of the application. I'm entitled to treat this as confidential, because it is commercially sensitive. But after considering this information, I'm satisfied that SBI reached its lending decision fairly, after taking into account all relevant factors, including (but not limited to) affordability, exposure to risk, and S's specific circumstances.

The accounts for 2020 showed that SBI's income requirement was met, but the 2021 financial statement for the company showed that the income requirement was by that point not being met. The questions SBI raised about S's accounts were, I find, legitimate, given the discrepancies in what the accounts showed and what Mr M was saying about £33,000 paid out in management fees that didn't show up as income for Mr M or his co-director

anywhere else. I'm also satisfied that it was reasonable for SBI to disregard re-valuation of assets as profit, as this was notional, rather than earned, profit; it would only be an actual, tangible profit if the assets were sold and generated a surplus.

I appreciate that the application took several months to consider, but I'm satisfied SBI was entitled to raise queries about the application. That demonstrates to me that SBI was giving the application serious consideration, and gave Mr M every opportunity to clarify the position on the accounts. Ultimately, however, SBI was entitled to decline the application when it did not meet its lending criteria.

In all the circumstances, I'm satisfied that SBI gave fair consideration to this application and so legitimately exercised its commercial judgement when deciding whether or not it would lend to S. This means that there is no basis upon which I can find that SBI has treated S unfairly or unreasonably.

My final decision

My final decision is that I don't uphold this complaint.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any correspondence about the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M on behalf of S to accept or reject my decision before 26 September 2023.

Jan O'Leary
Ombudsman