

The complaint

Mr P complains that Madison CF UK Limited trading as 118 118 Money lent to him irresponsibly.

What happened

Mr P was given two loans by 118 118 Money as follows:

	Date	Amount	Term	Monthly repayment	APR	Amount Payable
720540	07/09/2016	£2,000.00	24	£160.98	99.9%	£3,863.52
905685	02/06/2017	£4,811.51	24	£369.52	99.9%	£8,868.48

When Mr P was unable to resolve his complaint directly with 118 118 Money he came to us.

One of our investigators looked into Mr P's complaint and she recommended upholding Mr P's complaint about loan 1 as she thought that 118 118 Money should've realised this loan wasn't sustainably affordable for Mr P. But it looked like Mr P had more disposable income when he took out loan 2, and although our investigator didn't think 118 118 Money did sufficient checks before agreeing to provide loan 2, she also said that she didn't feel she'd seen enough to say that if 118 118 Money had done better checks it would've made a different lending decision.

So our investigator wasn't able to say that loan 2 shouldn't have been agreed and she didn't uphold that part of Mr P's complaint.

In response to our investigator's view, 118 118 Money has reconsidered its position on loan 1 and said that it doesn't intend to challenge the recommendation to uphold that part of Mr P's complaint.

Mr P said he wasn't happy with our investigator's view about not upholding loan 2. He mainly felt that his gambling addiction and the extent of his existing debt and his financial difficulties obvious from his credit report and bank statements meant that 118 118 Money should've seen that loan 2 wasn't affordable for him.

He has asked for an ombudsman to review his complaint so it comes to me to decide.

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.

We've set out our approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding Mr P's complaint. Having thought about everything and after looking at the complaint afresh, I've independently reached the same conclusions as our investigator. I'll explain my reasons.

There are some general principles I will keep in mind and questions I need to think about when deciding whether to uphold Mr P's complaint.

Before agreeing to lend, lenders must work out if a borrower can afford the loan repayments alongside other reasonable expenses the borrower also has to pay. This should include more than just checking that the loan payments look affordable on a strict pounds and pence calculation. A lender must take reasonable steps to satisfy itself that the borrower can sustainably repay the loan – in other words, without needing to borrow elsewhere.

The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out. For example, when thinking about what a borrower has left to spend on a new loan after paying other expenses, as well as taking into account the loan amount, the cost of the repayments and how long the loan is for, a proportionate check might mean a lender should also find out the borrower's credit history and/or take further steps to verify the borrower's overall financial situation.

If reasonable and proportionate checks weren't carried out, I need to consider if a loan would've been approved if the checks had been done.

If proportionate checks were done and a loan looks affordable, a lender still needs to think about whether there's any other reason why it would be irresponsible or unfair to lend.

For example, if the lender should've realised that the loan was likely to lead to more money problems for a borrower who is already struggling with debt that can't be repaid in a sustainable way.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer's income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income)
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income)
- the *longer* the period of time a borrower will be indebted (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

I've kept all of this in mind when thinking about whether 118 118 Money did what it needed to before agreeing to lend to Mr P and thought carefully about the following key questions:

- ☐ Did 118 118 Money complete reasonable and proportionate checks to satisfy itself that Mr P would be able to repay loans in a sustainable way? If so, did it make fair lending decisions? If not, what would reasonable and proportionate checks have shown at the time?
- ☐ Did 118 118 Money act unfairly or unreasonably in some other way?

As 118 118 Money has confirmed that it is willing to settle Mr P's complaint about loan 1 in the way our investigator has suggested, I don't think I need to say more about loan 1 except that I've reviewed this loan and independently reached the same conclusion as our investigator. So I won't refer to this loan further except to include it when setting out what 118 118 Money needs to do to put things right for Mr P.

But I don't think 118 118 Money should've provided loan 2. I'll explain why I say this.

118 118 Money gathered some information from Mr P before it agreed the loan. It asked him for details of his income (which it checked) and monthly expenditure. 118 118 Money also carried out credit checks to find out how much Mr P paid towards his credit commitments and to understand his credit history.

Mr P said his net monthly income was £3600 and his monthly outgoings were £850 – including £300 spending on credit card repayments.

118 118 Money saw from its credit checks that Mr P had credit card debt totalling £5134 and debt expenditure totalling £711 on loans (not including loan 1 which was going to be repaid out of loan 2). His credit cards were all close to their limit and 118 118 Money knew he'd had some arrears on those accounts. I think it's fair to say that overall this information was at odds with what Mr P had told 118 118 Money about his financial situation. So our investigator felt that a proportionate check would've required 118 118 Money to go further in its checking and gather, and independently check, some more detailed information about Mr P's financial circumstances before it agreed to lend to him.

Like our investigator, I don't think that the checks 118 118 Money did were enough. I think it would have been proportionate for 118 118 Money to have done more to check the true state of Mr P's finances before agreeing the loan.

But although I don't think the checks 118 118 Money did before agreeing the loan were sufficient, that isn't a good enough reason for me to be able to uphold Mr P's complaint. In order for Mr P's complaint to succeed, I would need to be able to say that proportionate checks would have shown 118 118 Money that Mr P couldn't sustainably afford the repayments.

So, I've looked at what I think proportionate checks would likely have shown.

Mr P has provided us with various bank statements, including those covering the period running up to him taking out loan 2 – which I have been able to look at. The bank statements I've seen appear broadly to show information that 118 118 Money could already see from its credit checks. It looks like he had underestimated some of his spending, but even so, looking at his income around that time, it seems that Mr P should reasonably have been able to expect that he would have more than £1000 spare cash. So the loan repayments looked comfortably affordable for him.

And although he has explained that his compulsive gambling led to serious money problems for him, I can't fairly say that this is information that 118 118 Money should have found out if it had done a proportionate check before agreeing loan 2.

I say this because I can't see this is reflected in the bank statements I've seen covering the run-up to loan 2. Whilst his bank statements show he made a high number of cash machine withdrawals, there's nothing to indicate what that money was spent on. And I don't think this information was sufficient to have prompted a lender reasonably to the conclusion that this loan was unlikely to be sustainably affordable for Mr P.

I've taken into account that Mr P feels his credit history should've alerted 118 118 Money to think that this loan wasn't affordable for him. But it isn't unusual for borrowers applying for high cost credit like this to have an impaired credit history or other short term loans – and it's not necessarily a reason for a lender to decline a loan application. I don't think the information that appears on his credit report is enough for me to say that 118 118 Money should've declined his loan application.

I would also just mention that although Mr P has said his bank statements in the period leading up to loan 1 would've shown the extent of his gambling, this isn't information that I would reasonably expect 118 118 Money to have asked for either when he applied for loan 1 or when he took out loan 2. That's because I don't think a proportionate check would have required 118 118 Money to ask to see bank statements or revealed this information when he applied for loan 1. And when Mr P applied for loan 2, I don't think that 118 118 Money needed to ask to see bank statements going that far back. I think it might've been reasonable for it to ask to see bank statements for the three months leading up to loan 2 or take other steps to find out information relating to that period. But I've explained above why I still don't think 118 118 Money would've seen enough information of concern for it to realise that the loan wasn't likely to be affordable for Mr P.

Given everything that Mr P has told us, I think it's fair to say that 118 118 Money had an incomplete understanding of Mr P's true financial situation. But I haven't seen enough overall to make me think that even if 118 118 Money had sought a fuller picture of Mr P's finances it should've realised that the loan wasn't sustainable for him.

Even if it had completed the proportionate checks that it ought to have done, it still wouldn't have seen enough in my view to prompt it to decline his loan application. I think it would've been reasonable to conclude that loan 2 looked like it ought to be sustainably affordable for Mr P and that it was fair to lend to him. So this is why I'm not upholding his irresponsible lending complaint about loan 2.

I haven't seen enough to make me think that 118 118 Money acted towards Mr P in some other way that wasn't fair and reasonable. So I'm not planning to say that 118 118 Money needs to do anything more than it has already agreed to or pay anything further to Mr P beyond providing him with redress in respect of loan 1.

I appreciate that Mr P feels strongly about what happened and he holds a different view to me. I would like to assure him that I've taken carefully into account everything that's been said, including his comments sent to our investigator. I can understand that Mr P will be disappointed in the outcome of his complaint but I hope that setting things out as I've done helps explain how I've come to my view.

After taking everything into account, I don't think 118 118 Money should have agreed to provide loan 1 to Mr P – so it needs to put things right.

Putting things right

I think it is fair and reasonable for Mr P to repay the capital amount that he borrowed when he took out loan 1, because he had the benefit of that lending. But he has had to pay interest and charges on a loan that shouldn't have been provided to him.

118 118 Money said it sold the outstanding debt so it should now buy it back, if it's able to do so and then take the following steps. If 118 118 Money isn't able to buy the debt back, then it should liaise with the new debt owner to achieve the results outlined below.

118 118 Money should:

- add up the total amount of money Mr P received as a result of having been given loan 1. The repayments Mr P made to this loan should be deducted from this amount.
- If this results in Mr P having effectively made payments above the original capital borrowed, then 118 118 Money should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled*.
- If an outstanding capital balance remains, then 118 118 Money should try to agree an affordable repayment plan with Mr P, always bearing in mind the need to treat him positively and sympathetically in those discussions.
- Remove any adverse information recorded on Mr P's credit file in relation to loan 1.

*HM Revenue & Customs requires 118 118 Money to deduct tax from this interest. 118 118 Money should give Mr P a certificate showing how much tax it has deducted, if he asks for one.

My final decision

For these reasons, I partly uphold this complaint and direct Madison CF UK Limited trading as 118 118 Money to take the steps set out above to put things right for Mr P.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 5 August 2021.

Susan Webb
Ombudsman