

The complaint

Mr S complained that Madison CF UK Limited trading as 118 118 Money (118 Money) lent to him irresponsibly and sold his debt to a debt collection agency.

What happened

Mr S took out a loan from 118 Money in October 2018 as follows:

Date	Amount	Term	Monthly repayment	Interest
01/10/2018	£2000	24 months	£165.88	£1981.12

Some payments were missed. By August 2019, he was in arrears. In September 2019, the debt was sold to a debt collection agency.

Mr S complained that he was in difficulty when he applied for the loan. So, 118 Money shouldn't have lent him the money in the first place. He said that they'd agreed a payment plan in September 2019 and so the debt shouldn't have been sold to a debt collection agency. He had to sell his valuable mobile phone at a knock-down price to make the agreed payments.

118 Money responded in September 2019. They said that Mr S passed all their credit checks when they agreed his loan application. They also made a welcome call to him at the time – and he was asked to confirm that he could afford the repayments and whether he was aware of anything else that might affect this. He didn't say anything. Therefore, they didn't agree that they'd lent irresponsibly.

Mr S brought his complaint to this service. Our investigator looked at what had happened. She considered whether 118 Money had acted in line within the Financial Conduct's (FCA) rules on creditworthiness assessment as set out in its handbook, (CONC) section 5.2. These say that a firm must undertake a reasonable assessment of creditworthiness, considering both the risk to it of the customer not making the repayments, as well as the risk to the customer of not being able to make repayments. In August 2020 she said that she thought 118 Money hadn't carried out reasonable and proportionate checks to see if Mr S could afford the loan. They had seen a credit report - Mr S had debts of £12812. And his debt to limit ratio was 92% - so he was borrowing up to his limits. Mr S had told 118 Money that his monthly income was £3200, but this was total household family income, not his own – which was £515 per month. He told them his outgoings were £955 per month – but his bank statements in September 2018 showed expenditure of £4264 per month. Direct debts were £559 per month. She saw evidence of payday loans going into the account. There were payments to a debt management agency. The purpose of the 118 Money loan was to consolidate some loans – but they hadn't shown they knew which ones were to be repaid. And the 118 Money loan was paid into Mr S' bank account, so they didn't make sure any of

the other loans were paid off. So, 118 Money couldn't have been sure they weren't putting him in a worse position by increasing his overall debts.

She considered that it wasn't reasonable to give Mr S the loan in the first place. 118 Money should refund all the interest and charges that Mr S had paid on the loan – plus 8% per annum simple on the payments that Mr S had made on the loan. And to remove any negative information on his credit file. She didn't say that the loan should be written off as he'd had the use of the money.

118 Money agreed with her view. They reduced his debt at the debt collection agency by £1981.12. They removed their entries at the credit reference agencies.

Mr S disagreed with part of the investigator's view - he said that the debt shouldn't have been sold to a debt collection agency because 118 Money had agreed a payment plan with him in September 2019. And he'd had to sell an expensive mobile phone to meet those payments. He asked that his complaint be reviewed by an ombudsman.

I reached a provisional decision where I said:

Mr S and 118 Money have agreed with the investigator's view – that the loan shouldn't have been given in the first place. So, I won't repeat here what she found and recommended. 118 Money have reduced Mr S' debt with the debt collection agency by £1981.12 and removed their entries from Mr S' credit file.

Mr S' further points are – that his debt shouldn't have been sold to a debt collection agency because he'd agreed a payment plan with 118 Money. He says he's getting hassled by them. And to meet those repayments, he had to sell his expensive mobile phone for a knockdown price. So, I will look at those aspects.

Mr S called 118 Money on 3 September 2019. I have listened to the calls. In them, Mr S said he knew he was in arrears. But he was back in work after being unemployed and he wanted to sort out his payments to the loan. He agreed to pay £100 that day and a further £165.88 on 6 September 2019 - and then £265.88 on 27 September 2019 and £265.88 on 28 October 2019. This plan was clearly agreed by 118 Money on the call. They said that if he didn't meet these, then collections processes would go ahead. Mr S paid £100 with his card – and the agent confirmed this was successful.

I have looked at Mr S loan statements. These show the debt was written off (and passed to the debt collection agency) on 2 September 2019 with a balance of £3151.72 debit. So, it looks like this happened on the day of Mr S' call, or the day before it. 118 Money should've been aware of this when they spoke to Mr S and agreed the payment plan. The payment of £100 is shown as returned on 3 September 2019 – because the loan had been closed.

So - 118 Money did agree to a payment plan – and shouldn't have sold the debt to the debt collection agency. So, they should now take the remaining debt back from them onto their books, and agree a sensible repayment plan with Mr S.

Mr S says he sold his valuable mobile phone at a knock-down price to meet the agreed repayments. We have no evidence here and therefore can't make a specific award for this. But in view of the stress and inconvenience that Mr S has gone through, I think 118 Money should pay him £150 compensation.

I cannot see from the file that 118 Money has dealt with the payment of interest of 8% per annum simple on the payments that Mr S made to the loan – so for completeness, I ask them to do this and reduce the amount of the loan by this amount.

The other actions are as recommended by the investigator – refund all interest and charges on the loan. And remove any adverse entries on Mr S' credit file.

Mr S replied to my findings. He showed us that he'd received a payment of £350 from a mobile phone buyer. 118 Money replied also. They said they disagreed with my findings as:

- They clarified the debt was sold to a debt purchaser, not a debt collection agency
- They had the right to sell the loan in line with their terms and conditions
- They said I can't ask the debt to be taken back from the debt purchaser.
- They queried my remedy where I'd said that 8% simple interest should be paid on the payments made to the loan. They said it should be paid on the net amount Mr S paid, after considering all amounts he received and then paid out – as the interest had been refunded.

So – I now need to make a final 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.

Mr S has shown us that he received £350 for his phone. We don't know the value of the phone and therefore what his loss was. So, I can't make a specific award for this. But as I said in my provisional decision, the award of £150 is to take account of the sale.

I'm grateful for 118 Money pointing out that the debt was sold to a debt purchaser. I do not dispute that they had the right to sell Mr S's debt to them. But my provisional decision found that they'd agreed a payment plan with him – and therefore the debt shouldn't have been sold. They say I can't ask them to transfer the debt back to them from the debt purchaser – I can, if I consider that that's a fair and reasonable thing to do in the circumstances. I've carefully thought about this again – and I do believe that's the right solution here – because the sale of the debt shouldn't have happened in the first place.

I'm also grateful for their clarification on the amount of the award to be paid as 8% simple interest – this should be paid on the amount of money Mr S paid to 118 Money, considering that the interest of £1981.12 has been refunded.

Putting things right

So, my final decision is that 118 Money should:

- Refund all interest and charges made on the loan. I can see they've already done this by adjusting the debt at the debt purchaser.
- Pay Mr S 8% per annum simple interest on the net payments he made on the loan. To calculate this, they should add up the total amount of money Mr S received as a result of having been given the loan. The repayments Mr S made should be deducted from this amount. If this results in Mr S having paid more than he received, then any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). Any payment should be made to Mr S' loan.

- Remove any adverse information at credit reference agencies in respect of the loan. I can see they've already started this process.
- Take the remaining debt back from the debt purchaser onto their books, and agree a mutually acceptable repayment plan with Mr S. I would say that the onus here is for Mr S to make these repayments – or he will run the risk of the debt defaulting again.
- Pay Mr S £150 compensation. This should be paid into Mr S' bank account.

My final decision

I uphold this complaint. My final decision is that Madison CF UK Limited trading as 118 118 Money should:

- Refund all interest and charges made on the loan.
- Pay Mr S 8% per annum simple interest on the net payments he made on the loan. To calculate this, they should add up the total amount of money Mr S received as a result of having been given the loan. The repayments Mr S made should be deducted from this amount. If this results in Mr S having paid more than he received, then any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). Payment should be made to Mr S' loan.
- Remove any adverse information at credit reference agencies in respect of the loan.
- Take the remaining debt back from the debt purchaser onto their books, and agree a mutually acceptable repayment plan with Mr S.
- Pay Mr S £150 compensation. This should be paid into Mr S' bank account.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 22 April 2021.

Martin Lord
Ombudsman