

The complaint

Mrs D has complained that CarCashPoint Limited (“CCP” or “the lender”) was irresponsible to have agreed credit for her.

What happened

CCP provided Mrs D with a loan of £5,500 in June 2018. The total amount of £25,300, including interest and charges, was to be repaid in 260 weekly instalments of £97.31.

This was a ‘log book’ loan, in other words it was granted on the basis that Mrs D provided CCP with a bill of sale for her car. This meant that if Mrs D didn’t make her loan repayments CCP could potentially recoup its losses through the sale of the vehicle.

I understand Mrs D repaid her loan in August 2019.

Mrs D said that CCP was irresponsible to have agreed credit for her because it could see from the information she provided at the time that she was having problems managing her money. Mrs D explained that she was in a debt management plan with some of her creditors and was frequently spending large sums on gambling.

One of our investigators looked into Mrs D’s complaint and recommended that it be upheld because they concluded CCP had lent irresponsibly. They recommended CCP refund all interest and charges paid on the loan and remove adverse information relating to it from Mrs D’s credit file.

Mrs D accepted the recommendation, but CCP didn’t agree with it. The case has now come to me, as an ombudsman, to review and resolve.

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.

I have also taken into account the law, any relevant regulatory rules and good industry practice at the time.

The facts of the case are known to both parties and are not in dispute, so I won’t go into what happened in detail but will focus on giving the reasons for my decision.

Before agreeing credit for Mrs D CCP needed to check that she could afford to meet her repayments sustainably, in other words out of her usual means without having to borrow further and without experiencing financial difficulty or other adverse consequences. The checks needed to be proportionate to the nature of the credit and Mrs D’s circumstances, and CCP needed to take proper account of the information it gathered.

CCP provided this Service with the information it relied on in making its lending decision. This included Mrs D’s application form, her payslips and bank statements. I haven’t come to

any conclusions about whether CCP's assessment was proportionate on this occasion or whether it ought to have done more before agreeing to lend to Mrs D. This is because I find that CCP ought to have known, or reasonably suspected, from the information it did have that Mrs D wasn't going to be able to repay further credit sustainably.

The information CCP had showed that Mrs D was:

- in a debt management plan with monthly repayments of about £600;
- spending a high proportion of her wages on identifiable gambling, for example, over £1,000 over three weeks in each of May and June with similar transactions via an online payments system in April;
- paying out large sums to another bank account, for example £2,000 in June; and
- recently borrowing from at least three short term lenders.

CCP says that it noted Mrs D was in a debt management plan and understood that it was a debt from July 2017. The lender says that Mrs D hadn't taken out further short term credit in the weeks prior to its loan, had no county court judgements and appeared to be managing her debts. CCP also noted Mrs D's gambling spend but didn't find it to be "problematic or systemic". It also commented that this spending was from disposable income and there was no clear evidence of this resulting in financial harm; in fact looking at the total credits on the bank statements there would also appear to be additional winnings in the intervening periods. Finally, CCP also says it found the loan repayments to be affordable and noted that Mrs D had successfully met her repayments and settled her loan early.

CCP was required to do more than assess Mrs D's ability to repay the credit – it needed to check whether there was a risk to her be able to do so without experiencing adverse consequences. I think the information the lender had should have indicated that Mrs D wasn't managing her existing debt levels without difficulty, and so there was a risk that further credit was likely to simply add to her indebtedness. I think these circumstances together with Mrs D's recent use of expensive short term credit were likely indications of an going financial need. Furthermore, irrespective of whether Mrs D's spending patterns could be described as problematic, systemic or financially harmful, the extent and frequency of these ought reasonably to have raised serious concerns for CCP about her ability to meet her repayments when they were due over the loan term.

So in this case, I don't think it's likely that successfully meeting her repayments meant Mrs D managed to do so in a sustainable manner. Mrs D has provided her bank statements to this Service and I note that her short term lending repayments continued after the loan was agreed and I can see that she spent the bulk of the credit on gambling, which I think was an evident risk at the outset. Mrs D says that she continued to borrow from short term lenders and ended up with more debt being paid through repayment plans, putting her and her family under extreme stress.

Altogether, I find that CCP was irresponsible to have agreed this loan for Mrs D and it needs to put this right.

Putting things right

I understand that the loan has now been repaid. In order to put things right for Mrs D, CCP needs to:

- a) Refund to Mrs D all interest and charges she paid for the loan;
- b) Add 8% simple interest per annum to these amounts from the date they were paid to the date of refund; and
- c) Remove any adverse information about this loan from Mrs D's credit file; and

- d) Revoke the Bill of Sale for Mrs D's car if this is still in place and return any relevant documents to her if it hasn't already done so.

*HM Revenue & Customs requires CCP to deduct tax from this interest. It should give Mrs D a certificate showing how much tax it has deducted, if she asks for one.

My final decision

For the reasons set out above, I'm upholding Mrs D's complaint about CarCashPoint Limited and it should put things right as I've outlined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 21 May 2021.

Michelle Boundy
Ombudsman