The complaint

Mr R complains about a loan he took from UK Credit Limited.

What happened

In April 2018, Mr R applied for and received a loan of £2,000. It was to be repaid in 36 monthly instalments of £95.96. He says he doesn't believe the loan was ever affordable for him and if UK Credit had carried out proper checks, he believes it should have refused to lend to him.

UK Credit says it carried out its usual checks which included obtaining proof of his income, reviewing his credit file and a conversation about his expenditure. It said in the circumstances, the checks were proportionate and showed Mr R ought to have been able to afford the loan. UK Credit rejected Mr R's complaint.

Mr R didn't agree and referred his complaint to us. One of our investigators looked into it and felt that UK Credit ought to have carried out more checks based on the information it found on Mr R's credit file, and that Mr R's initially declare expenditure took the loan outside UK Credit's usual affordability measures. Our investigator felt that if UK Credit had carried out further checks, it would have declined Mr R's application. He upheld the complaint and asked UK Credit to put things right.

Mr R agreed with our investigator, but UK Credit didn't. As there was no agreement, the complaint has been passed 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.

We've set out our approach to complaints about high cost credit on our website – including the key relevant rules, guidance, good industry practice and law. I've considered this approach when deciding this complaint.

UK Credit needed to carry out reasonable and proportionate checks to ensure that it didn't lend to Mr R irresponsibly. The checks were for UK Credit to satisfy itself that Mr R would be able to repay the loan sustainably. It's not about UK Credit assessing the likelihood of it being repaid, but it had to consider the impact of the loan repayments on him.

There is no set list of checks that it had to do, but it could take into account several different things such as the amount and length of the loan, the amount of the monthly repayments and the overall circumstances of the borrower. The fact that the loan was guaranteed by a third party and the potential for UK Credit to pursue the guarantor instead of Mr R doesn't alter or lessen the obligation.

As mentioned above, UK Credit obtained proof of income, checked Mr R's credit file and spoke to him about his expenditure. So I understand why, on the face of it, UK Credit felt it had carried out reasonable and proportionate checks for a relatively small loan of £2,000. But it's not enough simply to carry out the checks, it needs to consider the information is receives as a result in order to reach a fair decision to lend. On this occasion, I don't think it did reach a fair decision to lend – let me explain why.

Mr R supplied a copy of his employment contract as his proof of his income. This showed he'd only been in employment around three weeks and was on a six-month probationary period. It confirmed his annual salary as £20,232. I don't think it's wrong to consider income and employment where the position is so new, but I think it ought to be bourn in mind that it is potentially less secure than someone who'd been employed for some time and was no longer in a probation period.

Mr R's credit file showed he'd previously had some financial difficulties, leading to three accounts falling into default in an 18-month period between 2012 and 2014. But since then, until September 2017, he appeared to have got things back on track – albeit, the defaults were still outstanding.

In September 2017, Mr R borrowed £2,000 from a different lender to be repaid over three years. In November 2017, he opened a credit card with a £1,500 limit. Then in December 2017, he repaid the loan by borrowing £5,250 over five years using the same lender. He then refinanced this again in February 2018 with a loan of £7,000 over five years.

UK Credit spoke to Mr R to obtain details of his expenditure. During the call, Mr R was a little vague about amounts of expenditure. He said he and his partner (who was also his guarantor for this application) take it in turns to pay the mortgage – one month each – but he was unclear on what the amount he paid was. Moving on to the household and food bills Mr R said they were split *"down the middle"*. After discussing utility bills which were split with his partner, Mr R said he paid the broadband but *"had no idea how much it is – I think it comes out of my account – I think it's like…18 quid a month."* For food and house keeping costs he said *"err, a month? phff, about 80 quid, a month, my contribution, I dunno"*. The advisor said that seemed low and asked him if he was sure. Mr R said *"shall we go…you think more?...£120?"*. The advisor accepted that figure.

On clothing, Mr R said he spent around £50 a month, and they moved on to discuss motoring expenses as the loan for a car. For entertainment and pets, Mr R said he spent money on his cat and nights out with his partner – *"we'll have a night out a week, so, forty or fifty quid…around £100 a month maybe"* (he shared the cost with his partner). The adviser said having considered all the expenses he'd mentioned and his commitments to other credit, his application had fallen *"outside of the affordability criteria. So is there anything that … you've over estimated?"*. Mr R said he'd given figures to *"try and be safe"*. When pushed, he said *"chop down the entertainment then"* and almost halved the cost of that from £131 per month to £70 which brought it into line the criteria.

So reviewing the information UK Credit had from Mr R, it will have seen he'd experienced previous problems, he'd recently started to borrow significant sums of money based on his income, was in a new job and seemed uncertain of his budget. Based on the figures he'd given initially, UK Credit had said the loan was outside its affordability criteria.

Given the situation, I've outlined, I think don't think UK Credit carried out reasonable and proportionate checks. I think it would have been sensible for UK Credit to make further checks to ensure the loan was likely to be sustainable for Mr R. I bear in mind too the rules lenders have to follow which are set by the Financial Conduct Authority in its Consumer Credit Sourcebook (CONC). At the time of this application, CONC 5.3.1 4(b) said *"it is not generally sufficient for a firm to rely solely for its assessment of the customer's income and* *expenditure, on a statement of those matters made by the customer"*.

As I've said, there is no set list of checks a lender has to carry out – and that also applies to any further checks it wishes to make. So I've thought about what it might have done had it asked for more evidence of Mr R's financial circumstances, and that may have included a review of his bank statements. Mr R has provided us with banks statements from December 2017 to April 2018 when he took this loan. I've seen that Mr R was routinely gambling a high proportion of his income (a little over half in the few months for which statements were provided).

Had UK Credit requested these at the time, I think it would have linked this behaviour to the large amount of credit recently acquired and noted it was being asked to increase his indebtedness further. I think it more likely than not it would have refused to lend to Mr R. I'm not satisfied UK Credit reached a fair decision to lend to Mr R, so I am upholding his complaint. I don't think however, that I've seen any evidence to suggest it has treated him unfairly in any other way.

Putting things right

When I find that a business has done something wrong, I'd normally direct that business to put the complainant in the position they would be in now if the mistake it made hadn't happened, as far as is reasonably practical.

In this case, that would mean putting Mr R in the position he would be in now if he hadn't been given the loan. Mr R was given the loan, used the money so it's right he should repay what he's received.

So, I think UK Credit should:

- Calculate the total amount Mr R received from UK Credit and deduct from that figure the repayments he's made to each loan.
    - If this results in Mr R having repaid more than he received, any overpayments should be refunded to him. Interest at a rate of 8% simple per year should be added to any overpayments from the date they were made until the date of settlement*.
    - If the calculation means there's still a balance for Mr R to pay, UK Credit should let him know how much is outstanding and reach a suitable, affordable payment plan with him. I remind UK Credit of its obligation to treat customers fairly.
- Remove any negative information recorded on Mr R's credit file regarding each loan.

*If UK Credit considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr R how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

My final decision is that I uphold this complaint. UK Credit Limited should put matters right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 6 April 2022.
Richard Hale

Ombudsman