DRN-2974225

The complaint

Mr S, through a representative, says UK Credit Limited lent to him irresponsibly.

What happened

Mr S took out a guarantor loan from UK Credit on 7 January 2015. It was for £7,500 over 60 months. The monthly repayment was £272.12 and the total repayable was £16,329.60. The loan was given on the basis Mr S had a guarantor who would be responsible for making the repayments if he failed to.

Mr S says UK Credit failed to carry out proper affordability checks or assess signs of his over indebtedness.

Our investigator recommended the complaint should be upheld. He said UK Credit's checks showed Mr S was struggling to manage his existing credit commitments and further lending was unlikely to improve his financial situation.

UK Credit disagreed. It said, in summary, that assessment is based solely on the results of the credit search but they actually showed Mr S was meeting his commitments or arrangements to pay. He was managing his debts and was now looking to consolidate them.

It asked for an ombudsman to review the complaint and so it was passed to me 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.

Our approach to unaffordable/irresponsible lending complaints is set out on our website and I've followed it here.

The Financial Conduct Authority (FCA) was the regulator when UK Credit lent to Mr S. Its rules and guidance, set out in its Consumer Credit Sourcebook (CONC), obliged UK Credit to lend responsibly. Amongst other things, UK Credit was required to carry out a reasonable and proportionate assessment of whether Mr S could afford to repay what he owed in a sustainable manner. This is sometimes referred to as an affordability assessment or an affordability check.

The checks also had to be borrower-focused. So UK Credit had to think about whether repaying the credit sustainably would cause any difficulties or adverse consequences for Mr S. In other words, it wasn't enough for UK Credit to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Mr S.

Checks also had to be proportionate to the specific circumstances of each loan application. In general, what makes up a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (eg. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount, type and cost of credit they have applied for. 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 for (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).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I've kept all of this in mind when thinking about whether UK Credit did what it needed to before agreeing to lend to Mr S, and have considered the following questions:

- did UK Credit complete reasonable and proportionate checks when assessing Mr S's loan application to satisfy itself that he would be able to repay the loan in a sustainable way?
- if not, what would reasonable and proportionate checks have shown?
- did UK Credit make a fair lending decision?
- did UK Credit act unfairly or unreasonably in some other way?

UK Credit asked for some information from Mr S before it approved the loan. It asked for details of his income, his employment and his housing and living costs. It asked for a recent payslip to check his declared income and also completed a third-party income verification check. It reviewed his credit file to understand his credit history and his existing credit commitments. It also asked about the purpose of the loan which was debt consolidation. From these checks combined UK Credit concluded Mr S had £1,600 of disposable income each month and so could afford the loan repayment of £272.12.

I'm not wholly persuaded these checks were proportionate as Mr S was applying to borrow a significant amount of money from UK Credit. He was entering into a long-term commitment and would need to make monthly repayments for five years. So I would expect that UK Credit would want to gather, and independently check, more detailed information about Mr S's financial circumstances – such as his actual monthly costs - before it agreed to lend to him. However, I won't comment further on this as even based on the information it gathered I don't think UK Credit made a fair lending decision. I'll explain why.

UK Credit knew from Mr S's credit check that he had £11,521 of unsecured debt. Mr S said that he was going to settle four low value loans, an existing loan he had with UK Credit and as much of his credit card balance as possible, just leaving one loan that currently had a £7,141 balance outstanding and a monthly repayment of £346.
The lender could also see that Mr S had been having problems managing his money in the last 12 months. He had defaulted on two accounts, one in June 2014 and one as recently as September 2014. The first was settled and he was making payments to reduce the second. He also had an arrangement to pay in place on a payday loan that he was in arrears on, and had been for 8 months. His larger loan, that he was not settling, had also been in arrears for 10 of the previous 11 months. I think from these facts combined UK Credit ought to have realised there was a risk that lending to Mr S could have adverse financial consequences for him. Whilst he was consolidating debts, he was borrowing at a high cost in part to settle

debts that were delinquent and in payment plans – so most likely had their interest and charges substantially reduced, if not frozen.

UK Credit's argument that Mr S's money problems were historic – and possibly caused by seasonal overspending in 2013, not 2014 does not change my conclusion. I also think that if that was the case, and given the lender calculated Mr S had disposable income each month of £1,600 he would have been able to resolve his problems early in 2014 – rather than still being in arrears on debt in late 2014.

In addition, Mr S would still need to spend a not insignificant percentage of his net income to service his ongoing debt – often a predictor of financial difficulties. UK Credit argues Mr S was getting on top of his debt, his arrears hadn't been escalating and there were no recent payday loans. But I'm not satisfied it was fair, for the reasons set out above and based on the available evidence, to conclude Mr S's financial instability was historic. And I think extending his reliance on high-cost credit for a further 5 years was more likely than not going to be financially harmful. UK Credit had to consider this to meet its obligations, not just the pounds and pence affordability.

It follows I think UK Credit was wrong to lend to Mr S.

I haven't seen any evidence that UK Credit acted unfairly or unreasonable towards Mr S in some other way.

Putting things right

It's reasonable for Mr S to have repaid the capital amount that he borrowed as he had the benefit of that money. But he has paid interest and charges on a loan that shouldn't have been given to him. So he has lost out and UK Credit needs to put things right.

It should:

- Remove all interest, fees and charges on the loan and treat all the payments Mr S made as payments towards the capital.
- As reworking Mr S's loan account will result in him having effectively made payments above the original capital borrowed, then UK Credit should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement*.
- Remove any adverse information recorded on Mr S's credit file in relation to the loan.

*HM Revenue & Customs requires UK Credit to deduct tax from this interest. UK Credit should give Mr S a certificate showing how much tax it's deducted, if he asks for one.

My final decision

I am upholding Mr S's complaint. UK Credit Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 5 April 2022.

Rebecca Connelley
Ombudsman