

The complaint

Mr K complains that CarCashPoint Limited (CCP) made an irresponsible lending decision when it provided him with a loan in 2014.

What happened

In October 2014, Mr K took out a loan for £2060 secured against his vehicle with an annual rate of interest of 213.82%. The loan was to be repaid weekly with 260 weekly repayments of £45.96 (of which £38.04 represented interest repayments).

In May 2020 Mr K complained to CCP about its decision to lend to him in 2014. He said the loan was unaffordable and had appropriate checks been completed at the time, this would have been clear. In the absence of these checks he feels CCP made an irresponsible lending decision.

CCP didn't agree. In its response it explained the checks it did undertake and why it felt these were sufficient to verify Mr K's income and expenditure and confirm the borrowing was affordable. It noted two other loans in Mr K's name but that these were up to date with no arrears or issues highlighted and the amount of income disclosed against the expenditure showed Mr K had a net disposable income of over £2000.

The complaint was brought to this service and our investigator agreed with Mr K that the checks carried out when the loan was taken out weren't sufficient to understand whether the loan repayment was affordable. She felt that further checks would have demonstrated that Mr K did not have the available disposable income claimed and that he's credit history showed he'd struggled to meet his financial commitments previously. And the loan with CCP wasn't affordable to Mr K.

She felt the decision to lend to Mr K based on the information it assessed was irresponsible and she explained what she felt CCP needed to do to put things right.

She recommended it do the following:

- Refund all interest and charges Mr K paid to date. As the borrowing had been repaid in full already, the amount should be given back to Mr K with simple interest* of 8% added.
- CCP should remove any adverse information recorded on Mr K's credit file as a result of the interest and charges.

CCP disagreed with our assessment. It said the checks completed at the time gave no reason to indicate that the declared income wasn't accurate. And the statements about the shares of the household expenses were plausible too. It felt there was nothing that indicated it should have been concerned about Mr K's ability to repay the loan. It also said it would have considered the CCJ's Mr K had recorded against him as historic debts as they were more than four years old when the application was made. It also highlighted that it felt Mr K's repayment history demonstrated he had no trouble meeting the obligations of the loan.

Because CCP didn't agree with our investigator, the complaint was passed to me for 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.

I've decided to uphold this complaint for much the same reasons as our investigator and will explain why.

Our approach to unaffordable/irresponsible lending can be found on our website and I've followed this approach when considering Mr K's complaint.

The rules and regulations relevant at the time when CCP provided Mr K the loan are set by the FCA in the Consumer Credit Sourcebook (CONC) rules. These required CCP to carry out an assessment of Mr K's credit worthiness with reasonable and proportionate checks to determine whether he could afford to repay the credit in a sustainable way. These needed to be borrower focused, meaning consideration needed to be given to whether repaying the debt in a sustainable way could result in difficulties for Mr K.

There is no set list of checks defined as reasonable and proportionate and as these checks need to be borrower focused, it follows that this could be different from one person to the next.

CCP explained the checks it carried out when the loan was taken out with an affordability assessment. It assessed the income of Mr K, reviewing his work logbook to confirm average weekly earnings and asked him to confirm details of his outgoings for his expenditure. It didn't complete a credit check as part of its checks and these were based solely on the information provided by Mr K, including evidencing payments to his account. It feels these checks demonstrated Mr K was in a strong financial situation with a net disposable income in the region of £2000. And based on this, it wouldn't have been reasonable and proportionate to carry out further checks.

Mr K was looking to borrow £2060, roughly the same amount as his income expenditure assessment showed he had available as his disposable each month. The snap shots of his current account provided to evidence his income showed a balance available of less than £10 and highlighted an ongoing loan repayment with another provider (covered on the affordability assessment). And Mr K let CCP know he'd recently taken out another loan in addition to this. So I don't think the checks indicated that Mr K was in a strong financial situation, or that it was likely he had a disposable income of £2000.

The loan amount requested wasn't a significant amount, but the interest rate and number of repayments meant the total amount repayable and ongoing commitment was. So based on the information gleaned from the checks and the amount and term of the borrowing, I think it would have been reasonable and proportionate to go further with the checks.

Had CCP reviewed Mr K's credit file it would have demonstrated he'd previously had a number of credit accounts which he's struggled to maintain, with accounts in default and County Court Judgements (CCJ's) issued against him. At the time of the borrowing he had 7 active defaults on his credit file and 2 CCJ's which would have still been visible despite having been registered some time before.

Had the bank statements also been requested to verify Mr K's income, it would have been apparent this was someway short of the amount detailed on the affordability assessment

with a maximum monthly income in the three months proceeding the application of less than £2750. Against the recorded expenditure on the affordability assessment of £3245.97, Mr K would have been shown to be spending more than he was earning each month.

Overall, I'm satisfied that had reasonable and proportionate checks been carried out, it would have been evident that Mr K was unlikely to be able to afford to repay the loan in a sustainable way. And the decision to lend to him in the absence of these checks was irresponsible.

Putting things right

As Mr K enjoyed the benefit of the loan amount, it is fair this was repaid. But the interest and charges incurred on this borrowing isn't something he should have paid. The loan has been repaid in full now by Mr K but as the lending shouldn't have been provided, CCP need do the following to put things right:

- Refund Mr K the interest and charges applied to his loan with 8% simple interest* added.
- Remove any negative information relating to the interest and charges from Mr K's credit file.

*HM Revenue and Customs may require CCP to deduct tax from the interest payment at the standard rate. If CCP deducts this, it should provide upon request, a statement of the tax paid.

My final decision

For the reasons I've explained above, I uphold Mr K's complaint against CarCashPoint Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 18 March 2022.

Thomas Brissenden
Ombudsman