

The complaint

Miss W has complained about Close Brothers Limited (CBL) which provided a loan enabling her to pay monthly for her car insurance.

What happened

Miss W took out a car insurance policy in January 2020 and arranged to pay for this monthly by virtue of a running-account credit agreement with CBL. In effect CBL paid the insurer up front and Miss W made monthly payments to CBL to repay that 'loan'.

In February 2020 the insurer put up the premium, the additional cost of which was covered by CBL and CBL increased Miss W's monthly repayments. The monthly amount was reduced a little while later following a credit being applied by the insurer.

In 2021 Miss W told CBL she was unhappy. She said she had really struggled with the repayments and she felt CBL shouldn't have lent to her. CBL said it had done some credit searches and it later told us that it had done an affordability check. It thought it had handled matters adequately.

Our Investigator noted that on Miss W's credit search there were signs that she likely couldn't afford the lending. She felt CBL had not performed proportionate checks to assess the affordability of the loan for Miss W – and that if it had it would have seen it was not affordable. So she felt CBL should refund to Miss W all interest and charges she'd paid against this agreement.

CBL felt that was unfair as Miss W had not been in default on any payment arrangements until May 2020 – after it had done its checks. It said it had not been made aware by Miss W during the life of the agreement that she was having financial difficulties. So, it said, it had not had any reason to enquire about her incomings and outgoings.

The complaint was passed for an Ombudsman's consideration.

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.

Having done so I'm upholding it. In short, and as our Investigator found, I'm not persuaded CBL completed reasonable and proportionate checks when arranging this loan. I think CBL could and should have done more to determine Miss W could afford the loan.

We've set out our general approach to complaints about unaffordable/irresponsible lending - including all the relevant rules, guidance, and good industry practice - on our website.

The rules and regulations in place required CBL to carry out a reasonable and proportionate assessment of Miss W's ability to make the repayments under this agreement. The checks needed to ensure that her repayments of this loan were sustainable.

In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications.

Here I know CBL has said Miss W passed its checks. But I think it's important to understand that, whilst it seems she passed the checks, her credit file shows that, around the time the checks were completed, she'd been missing payments on other agreements. As CBL has stated, Miss W didn't go into default on those agreement until May 2020, after it had run its checks. But a default occurs when payments have been missed, and the credit file does show missed payments. I think this then means that in this case to fulfil its obligation of making reasonable and proportionate checks, CBL needed to do more. I say that because the missed payments suggest Miss W was already having trouble meeting the obligations she already had. To me that should have initiated a logical query for CBL – 'can she afford any more lending?'. In other words if she can't maintain existing arrangements, is an additional drain on her resources sustainable?

I think that, if CBL had asked itself that question, in order to answer it, it would have needed to obtain details from Miss W about her incomings and outgoings. CBL has said it never did this. But I think if it had it would have come to understand that Miss W's financial situation was potentially subject to change – she had only just started a new job, and was struggling to meet her current commitments. As I said, the credit report shows some payments had been missed. And I think her bank statements further evidence her struggle at that time as they show the account rarely held any significant positive balance. CBL could have discovered all of this if it had completed reasonable and proportionate checks. I think if it had it wouldn't have lent to Miss W.

If CBL had not lent to Miss W she would not have incurred the cost of the interest and charges associated with the borrowing. So I think it needs to return those costs to her, plus interest*. But the fact of the loan will have to remain on Miss W's record. The parties have confirmed that all payments were made against this loan and it closed in the normal course of its expected life. So there is no adverse data in Miss W's credit report in relation to this loan which I'd otherwise likely require CBL to remove.

Putting things right

I require CBL to refund to Miss W all interest and charges which applied to her agreement, plus interest* on any of these sums paid by Miss W from the date of payment until settlement is made.

*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. HM Revenue & Customs requires CBL to take off tax from this interest. If asked, it must give Miss W a certificate showing how much tax it's taken off.

My final decision

I uphold this complaint. I require Close Brothers Limited to provide the redress set out about at "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 31 August 2022.

Fiona Robinson
Ombudsman

