DRN-3197218

The complaint

Miss H complains that the loan she had from UK Credit Limited was unaffordable to her.

What happened

Miss H took out a guarantor loan with UK Credit on 25 January 2019. She borrowed £2,500 and was due to repay £127.03 monthly for 36 months. Miss H paid one monthly instalment before her guarantor settled the loan on 27 February 2019.

Miss H says that UK Credit didn't carry out enough affordability checks when she applied for the loan. She said, had it done so, it would not have approved the lending.

UK Credit says it asked Miss H about adverse entries on her credit file and used her contract of employment to verify her income. It said Miss H lived with her parents and paid £100 per month towards rent and bills. UK Credit said it considered Miss H's explanations for the information on her credit file and continued with the loan as live credit was well managed. It found she had almost £800 of disposable income each month, making the loan affordable.

Our investigator recommended the complaint should be upheld. She wasn't satisfied UK Credit's checks went far enough as the credit check suggested financial difficulties and it had not verified Miss H's expenditure. That said, she found the existing information was enough to indicate the lending was irresponsible. She recommended that UK Credit should refund any interest Miss H has paid, plus 8% simple interest. Our investigator also said it should ensure that any associated negative information is removed from Miss H's credit file.

UK Credit responded to say, in summary, that although it agreed it should have obtained proof of expenditure it considered this would not have been helpful as Miss H had not been receiving an income for three months. It said it could only base its decision on affordability going forwards and, even with additional car-related costs, it was satisfied the repayments were affordable.

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 need to take into account the relevant rules, guidance and good industry practice.

The Financial Conduct Authority (FCA) was the regulator when UK Credit lent to Miss H. Its rules and guidance obliged it to lend responsibly. As set out in the regulator's Consumer Credit Sourcebook (CONC), this meant that UK Credit needed to take reasonable and proportionate steps to assess whether or not a borrower could afford to meet its loan repayments in a sustainable manner over the lifetime of the agreement.

CONC 5.2A.4R states that:

A firm must undertake a reasonable assessment of the creditworthiness of a customer before:

1. *entering into a regulated credit agreement; or*
2. *significantly increasing the amount of credit provided under a regulated credit agreement.*
3. *significantly increasing a credit limit for running-account credit under a regulated credit agreement.*

Repaying debt in a sustainable manner was defined as being able to meet repayments out of normal income without the customer having to borrow to meet the repayments, without failing to make any other payment the customer has a contractual or statutory obligation to make and without the repayments having a significant adverse impact on the customer's financial situation (CONC 5.2A.12R).

In general, I'd expect a lender to require more assurance the greater the potential risk to the borrower of not being able to repay the credit in a sustainable way. So, for example, I'd expect a lender to seek more assurance, potentially by carrying out more detailed checks

- the *lower* a person's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *longer* the term of the loan (reflecting the fact that the total cost of the credit is likely to be greater and the borrower is required to make payments for an extended period).

In addition, as per CONC 5.2A.16G (3): *For the purpose of considering the customer's income, it is not generally sufficient to rely solely on a statement of current income made by the customer without independent evidence (for example, in the form of information supplied by a credit reference agency or documentation of a third party supplied by the third party or by the customer).*

And CONC 5.2A.17R (2) says: *The firm must take reasonable steps to determine the amount, or make a reasonable estimate, of the customer's current non-discretionary expenditure.*

Bearing all of this in mind, in coming to a decision on Miss H's case, I have considered the following questions:

- Did UK Credit complete reasonable and proportionate checks when assessing Miss H's loan application to satisfy itself that she 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?

I've seen evidence to show UK Credit asked about Miss H's financial circumstances, checked her credit file and verified her income. However, based on the information it received I'm not satisfied that the checks carried out by UK Credit went far enough. I say that because:

- The loan was over a term of 36 months and UK Credit needed to ensure the repayments were sustainable over that period;
- UK Credit's credit check showed:
    - Five defaults – the most recent two both being in January 2019;
    - One County Court Judgement (CCJ) from January 2017;
- UK Credit did not verify Miss H's expenditure:
    - In particular, Miss H said the loan was to repay her mother for payments she'd made towards a car finance account and car insurance, neither of which were in UK Credit's affordability calculation.

I accept that Miss H explained the reason for the recent defaults was that she'd lost her job in October 2018 and had only recently started to work again. However, the arrears for the two most recent defaults started before October 2018 and, in one case, the original loan was taken out in 2014.

I consider this should have indicated to UK Credit that it needed to fully understand Miss H's financial circumstances before it approved the loan. As a result, Miss H was asked to provide her bank statements from the time, but she has been unable to do so.

Nevertheless, I'm satisfied that UK Credit had enough information to indicate that Miss H's financial difficulties had not wholly been caused by her recent unemployment. I acknowledge Miss H was earning over £1,200 in her new job, and that she lived with her parents, but I find it likely that UK Credit's calculation of a monthly disposable income of £766 was considerably higher than the reality. I say that because:

- Miss H's expenditure had not been verified;
- It did not include any car-related costs;
- She continued to utilise high-cost revolving credit;
- Miss H declared she was making minimum repayments to her credit card account;
- She said she was repaying her CCJ and defaulted accounts at a rate of about £100 per month in total.

Given the above I find it likely that Miss H could not afford to sustainably repay a further £127 per month for three years.

In summary, I consider it was irresponsible to lend to Miss H, particularly as UK Credit knew she'd defaulted on two credit accounts in the same month she applied for the loan. So I find

UK Credit did not make a fair lending decision, although I cannot conclude that it acted unfairly or unreasonably in any other way.

My final decision

My decision is that I uphold this complaint. UK Credit Limited should:

- Refund to Miss H the interest and charges she paid towards the loan along with 8% simple interest (calculated from the date the payments were made until the date of settlement*);
- Remove any negative information about the loan from Miss H's credit file.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 4 August 2022.

Amanda Williams
Ombudsman