

The complaint

Mr K complains that UK Credit Limited lent to him irresponsibly without doing sufficient affordability checks or properly assessing signs of over indebtedness.

What happened

Mr K was given a single loan by UK Credit. Mr K told UK Credit that he would use the loan for debt consolidation and repay some of his other outstanding debt with the money UK Credit provided.

The main loan details are as follows:

Date of Loan	Loan Amount	Loan Term (months)	Monthly Repayment	Interest payable
19/06/2019	£10,000	48	£366.31	£7,582.88

When Mr K complained to UK Credit it didn't uphold the complaint so Mr K brought his complaint to us.

One of our investigators looked into what happened and he felt that this was a complaint we should uphold.

UK Credit disagreed with our investigator's view. It mainly said that:

- because Mr K's rent, council tax and water bill had been deducted at source, our investigator hadn't properly assessed the amount his credit was costing him as a proportion of his actual income since our investigator didn't know how much that was
- it wasn't quite true for our investigator to have said that 'Mr K was 'already spending a considerable amount of his income on other loans' as this couldn't be verified
- UK Credit said Mr K's remaining household expenses would be significantly less of a proportion of his remaining income
- it didn't agree that there was enough to say that Mr K may have been reliant on credit and its credit search at the time showed he was managing his credit items relatively well
- Mr K was using the loan to consolidate some of these debts
- when UK Credit did up to date credit checks it said these showed problems started when Mr K had a significant and unforeseen change in circumstances. It pointed to the fact that the credit cards that were meant to be settled had either been settled and closed or settled and left open but with a £0 balance
- there were absolutely no signs of financial struggle evidenced anywhere in the up to date credit report and no proof that this loan caused any financial detriment to Mr K and we hadn't provided UK Credit with any statements to show otherwise.

UK Credit asked for an ombudsman review. The complaint came to me to decide. I issued a provisional decision.

What I said in my provisional decision

Here are some of the main things I said.

There are some general principles I will keep in mind and questions I need to think about when deciding whether to uphold Mr K's complaint.

Before agreeing to lend, lenders must work out if a borrower can afford the loan repayments alongside other reasonable expenses the borrower also has to pay.

This should include more than just checking that the loan payments look affordable on a strict pounds and pence calculation. And it's important to keep in mind that when working out if a loan looks likely to be affordable a lender must take a 'borrower focussed' approach and think about the impact of the lending on the customer. The lending decision shouldn't just be about the business risk to the lender of not getting its money back.

A lender must take reasonable steps to satisfy itself that the borrower can sustainably repay the loan – in other words, without needing to borrow elsewhere.

The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out.

For example, when thinking about what a borrower has left to spend on a new loan after paying other expenses, as well as taking into account the loan amount, the cost of the repayments and how long the loan is for, a proportionate check might mean a lender should also find out the borrower's credit history and/or take further steps to verify the borrower's overall financial situation.

I've kept all these things in mind when thinking about Mr K's complaint.

UK Credit gathered some information from Mr K before it agreed the loan. It asked him for details of his income and verified this by doing an online check. UK Credit also obtained a credit report to find out about Mr K's credit history and during a phone call it asked Mr K about his normal monthly spending and how he planned to use the loan.

Mr K's monthly take home pay, after deductions had been made for rent, council tax and his water bill, was recorded as £1,750. After reviewing the information on the credit report it obtained and speaking to Mr K, UK Credit worked out that with the planned debt consolidation, Mr K should still have a monthly surplus of around £141 *after* paying for its loan. So UK Credit concluded that the monthly repayment of £366.31 for this loan should've been affordable for him. On this basis, UK Credit concluded at the time that it was fair to provide this loan to Mr K – and it still thinks this.

I've carefully taken into account everything UK Credit has said – including comments it made in response to our investigator's view. But I see things differently to UK Credit. I agree with our investigator that UK Credit didn't make a fair lending decision when it agreed to provide this loan to Mr K based on the information it had in front of it. I'll explain my reasons for saying this.

One of the main reasons why I think it's fair and reasonable to uphold this complaint is because I don't think UK Credit thought carefully enough about what the information it had gathered showed about Mr K's financial situation. And I don't think the fact that his rent,

council tax and monthly costs for water were deducted at source and he received his pay net of these amounts makes any overall difference to the outcome.

UK Credit was able to see that Mr K's outstanding balance owing on loans was £12,125, he owed £6,155 on credit cards and £292 on other credit accounts. He had used most of his £250 overdraft. I think, given Mr K's particular circumstances, this did appear to be a lot of unsecured debt for someone in his situation. Mr K's need to use credit to this extent – especially what looked like significant reliance on credit cards– wasn't explained by what he told UK Credit.

I think UK Credit should've realised that the information it had gathered showing the extent of his reliance on expensive credit and the fact he was overdrawn by £234 at the bank was significantly at odds with what its credit checks showed and that it couldn't safely rely on what Mr K had told it about how he spent his money.

I also think it's fair to say that the credit checks it obtained showed that another member of his household had at least two credit cards at or over the account limit as well as mail order accounts close to the limit of the available credit offered. It was apparent that this person also had a defaulted account from 2018. Although this wasn't the person applying for this loan, I still think this was part of the overall picture that UK Credit was able to see. And given that Mr K had told UK Credit he was substantially the main earner, I think it would've given a useful context for thinking about whether this loan was likely to be sustainably affordable for Mr K given the apparent financial strain the household expenses looked to be under overall.

I don't think using this loan to repay existing debt was enough to give UK Credit reason to think this would've improved Mr K's overall position sufficiently to achieve a significant and sustainable improvement in his financial situation, given that his total outstanding indebtedness amounted to £18,572. The amount of the loan would still leave significant debt outstanding. After the planned debt consolidation, UK Credit calculated that Mr K was still committed to make monthly repayments of £562 towards his non-consolidated debt and on top of this he would need to pay his new UK Credit loan monthly repayment of ££366.31.

Even without knowing the amount of money deducted by his employer before paying over the balance of Mr K's salary, it is evident that Mr K would need to pay more than half the net take home pay he actually received just meeting his credit commitments. I think this was such a significant proportion of his available spending money that it wasn't ever likely to be sustainably affordable for Mr K, bearing in mind the 4 year loan term, and the fact that some of his other big non-consolidated debt items were set up to run for well over the next two years. I think this is borne out by the information UK Credit saw on the updated credit checks it carried out when Mr K complained about this loan.

Although UK Credit has said that Mr K used the loan as planned to repay other debt and there were no signs of financial struggle evidenced anywhere in the up to date credit report I don't agree that his position improved in the way UK Credit seems to be suggesting.

It's evident that when UK Credit did up to date checks these showed that Mr K's overall total indebtedness had increased by more than £1,734 – up from £18,572 in June 2019 to around £20,306 in September 2020. So whilst he may have paid off some of his credit cards in reality, he simply changed the type of credit he was using but was more reliant than ever on obtaining new credit.

Although the credit card balance had gone down by £4,030 (to £2,125) the overall loan balance had increased by £5,454. And his outstanding balance on other credit had gone up by £306 to £598. I can see that Mr K took out a new loan costing £64 per month over 3 years

just 5 months after he took out this loan. I think Mr K's continuing reliance on taking out this sort of expensive credit, after taking this loan to consolidate debt, supports my view that this loan wasn't sustainably affordable for him from the start. And although I can see that his changed circumstances brought matters to a crisis point, it's my view that lack of overall sustainability was always a foreseeable outcome and I can't see that this loan was other than detrimental to him from the start..

I think our investigator was right to be concerned that the disposable income figure UK Credit worked on wasn't, in reality, dependable. To be clear, I think the fact that Mr K lived in paid for accommodation and there was a second household income makes his use of expensive credit more difficult to understand or explain – it's not a reason to be reassured about his level of debt. Thinking about all the information UK Credit had gathered, I don't think it was able to be satisfied on the information it had in front of it that it could safely conclude this loan would be sustainably affordable for Mr K.

Even with the planned debt consolidation, I think the scale of Mr K's debt and the evidence that indicated he was already most likely significantly over stretched financially, compared to the much smaller value of the loan UK Credit provided, would suggest that it was reasonably foreseeable that Mr K would remain in serious financial trouble regardless.

So it's my provisional decision that UK Credit shouldn't have agreed to give this loan to Mr K on the basis of what it knew about his financial situation when it provided the loan. For these reasons, I am planning on upholding Mr K's complaint that he should not have been given the loan.

I haven't seen anything which makes me think that UK Credit acted unfairly or unreasonably towards Mr K in some other way. So I'm not planning to award any additional redress over and above what I've set out below. But as Mr K has been further indebted with expensive lending that he shouldn't have been provided with, I'm satisfied that he has lost out as a result of what UK Credit did wrong. So, I think UK Credit needs to put things right. I hope that setting out my reasons will help explain how I've reached my provisional decision and I invite UK Credit to reconsider its position in view of what I've said.

What the parties said in response to my provisional decision

Both Mr K and UK Credit have told me that they don't wish to add anything more to what they've said already and so I think it's reasonable for me to proceed with my review of this complaint.

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 unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding this complaint. I'd like to thank both parties for all the information that has been provided about this matter. Given that I've not received any further evidence or comment that changes my mind about this complaint, I confirm the conclusions I reached in my provisional decision.

Putting things right

I think it is fair and reasonable for Mr K to repay the capital amount that he borrowed, because he had the benefit of that lending. But he has paid extra for lending that should not

have been provided to him. In line with this Service's approach, Mr K shouldn't repay more than the capital amount he borrowed.

If UK Credit has sold any outstanding debt it should buy this back if able to do so and then take the following steps. Otherwise, UK Credit should liaise with the new debt owner to achieve the results outlined below and do the following:

- add up the total amount of money Mr K received as a result of being given the loan. The payments Mr K made should be deducted from this amount
- if this results in Mr K having paid more than he received, then any overpayments should be refunded along with 8% simple interest* (calculated from the date the overpayments were made until the date of settlement)
- if any capital balance remains outstanding, then UK Credit should attempt to arrange an affordable/suitable payment plan with Mr K bearing in mind the need to treat him positively and sympathetically in those discussions.
- remove any adverse information placed on Mr K's credit file regarding the loan.

*HM Revenue & Customs requires UK Credit to deduct tax from this interest. UK Credit should give Mr K a certificate showing how much tax has been deducted if he asks for one.

My final decision

I uphold this complaint and direct UK Credit Limited to take the steps I've set out above to put things right for Mr K.

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

Susan Webb
Ombudsman