

Complaint

Miss P has complained that Madison CF UK Limited (trading as “118 118 Money”) provided her with an unaffordable loan.

Background

118 118 Money provided Miss P with a loan of £2,000.00 in July 2017. This loan had an APR of 99.9% and a 24-month term. This all meant the total amount repayable of £3,841.92, which included interest of £1,841.92, was due to be repaid in 24 instalments of £160.08.

One of our investigators looked at this complaint and thought that 118 118 Money unfairly provided this loan. 118 118 Money disagreed with our investigator and asked for an ombudsman to review the complaint.

My findings

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 general approach to complaints about unaffordable/irresponsible lending - including the key rules, guidance and good industry practice - on our website. And I’ve referred to this when deciding Miss P’s complaint.

Having carefully thought about everything, I think that there are two overarching questions that I need to answer in order to fairly and reasonably decide Miss P’s complaint. These two questions are:

1. Did 118 118 Money complete reasonable and proportionate checks to satisfy itself that Miss P would be able to repay her loan in a sustainable way?
 - o If so, did it make a fair lending decision?
 - o If not, would those checks have shown that Miss P would’ve been able to do so?
2. Did 118 118 Money act unfairly or unreasonably in some other way?

Did 118 118 Money complete reasonable and proportionate checks to satisfy itself that Miss P would be able to repay her loan in a sustainable way?

118 118 Money provided this loan while it was authorised and regulated by the Financial Conduct Authority (“FCA”). The rules and regulations in place required 118 118 Money to carry out a reasonable and proportionate assessment of Miss P’s ability to make the repayments under this agreement. This assessment is sometimes referred to as an “affordability assessment” or “affordability check”.

The checks had to be “borrower” focused – so 118 118 Money had to think about whether repaying the loan would cause significant adverse consequences *for Miss P*. In practice this

meant that 118 118 Money had to ensure that making the payments to the loan wouldn't cause Miss P undue difficulty or adverse consequences.

In other words, it wasn't enough for 118 118 Money to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Miss P. Checks also had to be "proportionate" to the specific circumstances of the loan application.

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.

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 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 customer is required to make payments for an extended period); and
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may also be other factors which could influence how detailed a proportionate check should've been for a given loan application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances.

I've carefully thought about all of the relevant factors in this case.

Were 118 118 Money's checks reasonable and proportionate?

118 118 Money says that it carried out an income and expenditure assessment with Miss P prior to providing him with this loan. It also carried out a credit check. Miss P declared that she was earning around £1,500.00 a month and had expenditure of just over £1,000.00 a month. 118 118 Money's credit check showed that Miss P had six active accounts.

I've carefully considered what 118 118 Money has said. But the credit check it carried out showed that Miss P had 24 accounts, of which 6 were active and 18 had been settled. Miss P had also had 15 credit searches carried out on her (most likely as a result of making applications for credit) in the previous 12 months as well as more than one default. This all suggested that there was a possibility Miss P may have been struggling and it called into question whether Miss P really did have the disposable income 118 118 Money thought she did. And this leads me to think that 118 118 Money ought to have taken steps to actually verify Miss P's income and expenditure.

As I can't see that 118 118 Money did do this and instead proceeded with, what at first glance, appears to have been an overoptimistic declaration of Miss P's disposable income, I don't think that the checks it carried out before providing Miss P with this loan were reasonable and proportionate.

Would reasonable and proportionate checks have indicated to 118 118 Money that Miss P would have been unable to repay this loan?

As reasonable and proportionate checks weren't carried out before this loan was provided, I can't say for sure what they would've shown. So I need to decide whether it is more likely than not that a proportionate check would have told 118 118 Money that Miss P would have been unable to sustainably repay this loan.

118 118 Money was required to establish whether Miss P could make her loan repayments without experiencing significant adverse consequences – not just whether the loan payments were technically affordable on a strict pounds and pence calculation.

I've carefully considered the information provided. Having done so, it's clear Miss P was borrowing from a number of different lenders, including short term ones, in order to repay previous creditors and try to make ends meet. She also appears to have been significantly overdrawn on her current account too.

In these circumstances, it is not readily apparent to me how Miss P was in any sort of position to have been able to make the payments to this loan without borrowing further or experiencing financial difficulty. In my view, her ability to repay this loan was more likely than not dependent on her ability to borrow again, whether from 118 118 Money or elsewhere, before the end of the term.

Bearing all of this in mind, I'm satisfied that reasonable and proportionate checks would more likely than not have shown 118 118 Money that Miss P would not have been able to sustainably repay this loan. So I'm satisfied that 118 118 Money's failure to carry out proportionate checks resulted in it unfairly providing this loan to Miss P.

Did 118 118 Money act unfairly or unreasonably towards Miss P in some other way?

I've carefully thought about everything provided. And having done so, I've not seen anything to suggest that 118 118 Money acted unfairly or unreasonably towards Miss P in some other way. So I don't think 118 118 Money acted unfairly or unreasonably towards Miss P in some other way.

Did Miss P lose out as a result of 118 118 Money unfairly providing her with this loan?

As Miss P paid a high amount of interest and charges on a loan that she shouldn't have been provided with, I'm satisfied that she has lost out as a result of what 118 118 Money did wrong.

So I think that 118 118 Money needs to put things right.

Fair compensation – what 118 118 Money needs to do to put things right for Miss P

Having thought about everything, I think it would be fair and reasonable in all the circumstances of Miss P's complaint for 118 Money to put things right by:

- removing all interest, fees and charges applied to the loan from the outset. The payments Miss P made, to 118 118 Money and any debt purchaser, should be

deducted from the new starting balance – the £2,000.00 originally lent. If Miss P has already repaid more than £2,000.00 then 118 118 Money should treat any extra as overpayments. And any overpayments should be refunded to Miss P;

- adding interest at 8% per year simple on any overpayments, if any, from the date they were made by Miss P to the date of settlement†

† HM Revenue & Customs requires 118 118 Money to take off tax from this interest. 118 118 Money must give Miss P a certificate showing how much tax it has taken off if she asks for one.

I'd also remind 118 118 Money of its obligation to exercise forbearance and due consideration if it intends to collect on an outstanding balance, should one remain after all adjustments have been made to the account (should it buy it back from any third-party debt purchaser), and it's the case that Miss P is experiencing financial difficulty.

My final decision

For the reasons I've explained, I'm upholding Miss P's complaint. Madison CF UK Limited needs to put things right in the way set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 29 March 2022.

Jeshen Narayanan
Ombudsman