

The complaint

Miss E has complained that CarCashPoint Limited ("CCP") was irresponsible to have agreed credit for her.

What happened

CCP provided Miss E with a loan of £830 in February 2019. The total amount of £2,025, including interest and charges, was to be repaid in 18 instalments of £112.50 (figures rounded).

This was a 'log book' loan, in other words it was granted on the basis that Miss E provided CCP with a bill of sale for her car. This meant that if Miss E didn't make her loan repayments CCP could potentially recoup its losses through the sale of the vehicle.

It seems Miss E made late payments from the outset and was charged 16 late payment fees in total. The loan was fully repaid in January 2021.

Miss E says that CCP was irresponsible to lend to her because she was about to go on maternity leave and would have reduced income. Miss E also says she had four county court judgements at the time and fell behind on priority bills due to making the repayments for this loan.

One of our investigators looked into Miss E's complaint and didn't recommend that it be upheld. Miss E didn't accept this recommendation and asked for her complaint to come to an ombudsman to review and resolve. I issued a provisional decision on 28 January 2022 explaining why I planned to uphold Miss E's complaint. Miss E agreed with my provisional conclusions but CCP didn't respond. This is my final decision on the matter and will be legally binding if Miss E accepts it.

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, and as CCP hasn't provided any new information for me to consider, I see no reason to depart from my provisional conclusions and I am upholding Miss E's complaint. I will set out my reasoning again below.

As I'd said in my provisional decision, CCP will be aware of the relevant regulations so I will summarise them briefly here. CCP needed to check that Miss E could afford to meet her repayments out of her usual means without having to borrow further, without missing any of her existing obligations and without experiencing significant adverse impacts. This meant the lender was required to take reasonable steps to estimate Miss E's income and (non-discretionary) expenditure, and to estimate any reductions in income where it was reasonably foreseeable that a reduction was likely. CCP also needed to have regard to any information of which it was aware at the time that might have indicated that Miss E was in, had recently experienced or was likely to experience, financial difficulties.

The overarching requirement was that CCP needed to pay due regard to Miss E's interests and treat her fairly. CONC 2.2.2G(1) gave an example of contravening this requirement as 'targeting customers with regulated credit agreements which are unsuitable for them by virtue of their indebtedness, poor credit history, age, health, disability or any other reason.'

With this in mind, my main considerations are did CCP complete reasonable and proportionate checks when assessing Miss E's application to satisfy itself that she would be able to make her repayments without experiencing adverse consequences? If not, what would reasonable and proportionate checks have shown and, ultimately, did CCP make a fair lending decision?

CCP provided this Service with the information it relied on in making its lending decision. This included a record of its income and expenditure analysis, copies of Miss E's payslips from several months prior to the lending and snapshots of transactions from two of her bank accounts. Miss E told CCP that her monthly expenditure came to £820. CCP included £200 for other costs and estimated that Miss E would have about £565 left each month from a monthly wage of £1,585.

Miss E's relatively high surplus of close to £600 seems at odds with her being prepared to take out an expensive loan for £830. In addition, Miss E would need to meet her repayments for 18 months and the consequences of not doing so were potentially serious in that she might lose her car. So I think asking Miss E about her income and expenditure and looking to independently verify this information seems reasonable. However, I think the information CCP gathered ought to have raised further questions and concerns that Miss E was experiencing financial difficulties.

Although CCP verified Miss E's income, I can't see that the information it had helped it verify what Miss E's outgoings were. The snapshots of transactions it provided don't show any of the expenditure items Miss E declared, apart from what I have assumed to be a payment for rent - Miss E stated her rent was £300 a month, she now says it was in fact over £600 and I can see one payment to a local lettings agency for £604. The bank transactions for these two accounts include transfers from one account to the other, and also include large transactions to what seems to be another account in Miss E's name. I've also noted that the payslips CCP relied on showed that Miss E had an attachment of earnings (AOE) for £18, which I think ought to have alerted CCP to potential financial difficulties.

CONC 5.2A.36R stated that a lender must not accept an application for credit under a regulated credit agreement where it knows or has reasonable cause to suspect that the customer has not been truthful in relation to information supplied. I think CCP ought to have taken further steps to check that the information it had about Miss E's expenditure was correct and complete. I also think it would have been proportionate for CCP to have taken steps to understand how Miss E was managing her money. Altogether, I don't think CCP did enough here to check that Miss E would be able to meet her loan repayments over the term without difficulty.

I have also considered what Miss E said about being very close to term with her pregnancy at the time of the loan. She says that CCP ought to have known this because she met them in person to deal with the loan documentation and had a photo taken of her standing in front

of her car. CCP said in its final response letter to Miss E: "In your complaint you advised you were pregnant at the time of the loan being approved and having a baby would have

put you on a reduced income, however you did not advise or declare your pregnancy at the time of sign up, and as noted above you did not declare any changes in your financial circumstances. Notwithstanding, it is not unreasonable to assume your employer would contribute to maternity pay considering your 14 years of service and the affordability assessment was not highly sensitive to a potential income reduction.” I think had CCP suspected Miss E was pregnant then it ought to have taken steps to understand how this might impact on her ability to meet her loan repayments.

Miss E has provided information from her credit record and bank statements for another account into which she transferred large portions of her wages. I am not suggesting this is the documentation CCP ought to have relied on, but I think it’s a reasonably proxy for the information it was likely to have found out through proportionate checks.

The information shows that Miss E had four active county court judgements at the time of the loan: two from 2016 amounting to £675, one from January 2018 of £2,532 and one from November 2018 of £769. Miss E says that the attachment of earnings was for unpaid water charges. The statements for Miss E’s other bank account show that she was gambling frequently and spending significantly large amounts, for example about £500 in each of October, November, and December 2018.

I think Miss E’s spending patterns would have raised serious concerns for CCP about the suitability of a loan for her and the risk to her of not managing to meet her repayment over the term. I also think it would have shown that Miss E wasn’t managing her existing debts and was experiencing serious and recent financial difficulty. I don’t think CCP would have agreed to lend to Miss E on this occasion had it understood more about her circumstances, and so I’ve concluded it was irresponsible to have done so.

Miss E says she was on maternity leave from 1 March 2019 and has provided snapshot summaries of her wage slips for the months May to December 2019. These show her wages were £863, £667, £881 and £669 for the last four months respectively, which does seem to support what she’s told us and CCP about her personal circumstances.

I can see from Miss E’s credit file that she incurred another county court judgement in July 2019 for £1,705 and, as mentioned, she’s paid late fees throughout the loan term in addition to the interest charged. Altogether, I think that Miss E was adversely impacted by CCP’s lending decision and it needs to take steps to put things right for her.

Putting things right

I understand that the loan has now been repaid. As Miss E had the use of the money she borrowed I think it’s right that she has repaid that. However, I don’t think she should have paid any interest or fees and shouldn’t have her credit file impacted. In order to put things right for Miss E, CCP needs to:

- a) Refund to Miss E payments she made above the amount she borrowed*. To be clear this includes any interest or charges associated with the credit or its collection; and
- b) Add 8% simple interest** per annum to these overpayments from the date they were paid to the date of refund; and
- c) Remove any adverse information about this loan from Miss E’s credit file; and
- d) Revoke the Bill of Sale for Miss E’s car if this is still in place and return any relevant documents to her if it hasn’t already done so.

* Miss E says that although the loan agreement was for an amount of £830 the loan advance was in fact £800. I've noted that the loan documentation included a fee of £30 for an "agent visit fee for completion and sign up of the loan agreement" which was to be deducted from the loan advance. If Miss E received £800 with £30 being retained as a fee then everything she repaid above £800 should be considered an overpayment.

** HM Revenue & Customs requires CCP to deduct tax from this interest. It should give Miss E a certificate showing how much tax it has deducted if she asks for one.

My final decision

For the reasons set out above, I am upholding Miss E's complaint about CarCashPoint Limited and direct it to put things right as I've outlined.

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

Michelle Boundy
Ombudsman