

The complaint

Mr M complains that UK Credit Limited trading as UK Credit (UKC) didn't carry out enough checks when they agreed to a loan he was guaranteeing.

What happened

In September 2019, Mr M agreed to be the guarantor on a loan of £12,500 for Mr B, a friend. UKC provided Mr B with the loan. It was secured by way of a Guarantee and Indemnity agreement and was due be repaid in 30 monthly instalments of £584.09. Mr M said he only agreed to be the guarantor as Mr B gave him assurance that he would maintain the repayments. Mr M said he was asked by UKC to step in to cover the repayments for the loan. He complained to UKC as he didn't think they'd done enough to check the affordability of the loan for Mr B.

UKC said they'd carried out checks on Mr B's credit, verified his income, and checked the purpose of the loan. They said their affordability assessment had shown Mr B had disposable income after making an allowance for the loan's monthly repayment. And they hadn't seen anything to raise any concerns about Mr B not being able to sustain his repayments.

Mr M wasn't happy with UKC's response and he referred his complaint to us.

Our investigator said that Mr M was aware of his responsibilities as a guarantor. But she didn't think UKC had done enough to verify Mr B's financial circumstances given the amount of the loan and the monthly repayment. She said Mr M should be removed from being the guarantor for the loan. All payments he's made should be refunded plus 8% simple interest. And any adverse information about the loan should be removed from his credit file.

UKC didn't agree. They said that while they could have checked further into some late payments, there wasn't anything to show Mr B was in any financial difficulty. And that the checks they'd made showed he was effectively managing his credit. They asked for an ombudsman to decide.

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 this complaint. I'll explain why.

Mr M's complaint is that UKC didn't do sufficient checks on the borrower – Mr B before he was approved for the loan. Mr M says Mr B lied to him about his circumstances. And he thinks Mr B has acted fraudulently.

UKC has a responsibility to complete reasonable and proportionate checks on the borrower before approving any guarantor or loan. This meant that UKC needed to carry out proportionate checks to be able to understand whether the borrower and Mr M could afford to make all the loan payments.

I've considered the following questions:

- Did UKC obtain Mr M's properly informed consent to become guarantor for the loan?
- Did UKC carry out reasonable and proportionate checks to satisfy itself that Mr M was in a position to sustainably repay the loan, in the event that the borrower did not? If not, what would reasonable and proportionate checks have shown at the time? And
- did UKC make a fair lending decision (as Mr M would be equally liable for this loan with the borrower).

Mr M signed a Guarantee and Indemnity agreement in respect of the loan. That meant that, should the borrower be unable or unwilling to make the required repayments, UKC could seek repayment from Mr M. And Mr M isn't disputing that he knew what his role was as a guarantor, and that he could be asked to step in to cover the loan. Mr M's dispute is that UKC didn't make a fair lending decision as Mr B had other loans and gambling debts that Mr M said he later found out about. Mr M said if UKC had properly checked Mr B's financial situation they wouldn't have lent to him. Which would have meant Mr M wouldn't have been a guarantor for the loan. So, it's the final question that I've considered.

I've considered the relevant rules, guidance and good industry practice when someone complains about irresponsible and/or unaffordable lending. There's no set list for what reasonable and proportionate checks are. But I'd expect lenders to consider the specific circumstances of the loan application. What constitutes a proportionate affordability check will generally depend on several factors such as financial history, current situation and whether there are any indications of vulnerability or financial difficulty.

But there are factors which could influence how detailed a proportionate check should be for a given loan application. For example:

- the consumer'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 amount from a particular level of income); and
- the longer the term of the loan (reflecting the fact that the total cost of the credit is likely to be greater and the consumer is required to make payments for an extended period).

I can see that UKC checked Mr B's credit file and went through an affordability assessment with him over the telephone. And from the information they saw or were given by Mr B, they didn't see any evidence of financial difficulty. And they considered Mr B had sufficient disposable income to cover the monthly repayments for the loan.

But I don't think UKC thought carefully enough about what Mr B told them in the affordability call. And I don't think they did enough to obtain an accurate picture of his income or outgoings.

UKC's affordability assessment showed Mr B was self-employed, but was paid a monthly salary. UKC verified his income through a credit reference agency. Mr B said he'd recently moved back to living with his parents and didn't pay any rent, a situation I'd expect would

change over the 30 month period of the loan. Mr B said he contributed to household costs for example food and he was also paying for child maintenance although he also said he didn't have children.

Although UKC said they'd verified Mr B's monthly salary paid from his company, they appear to have accepted what he said about his expenditure. Mr B said the loan was for debt consolidation and the purchase of a car. But Mr B also said during the call he was looking to invest and purchase property. Mr B said he received dividend payments from his company and gave an example of one for £10,000. Mr B also referred to having two companies, and while his position in one company was discussed, and his salary and dividend payments, no details were asked about the other company he'd referred to. With this and the level of disposable income UKC considered he had makes me question Mr B's need for a loan when he was able to meet his existing commitments. And this loan would increase his level of indebtedness and his monthly repayment commitment.

In the call Mr B also referred to personal debts he needed to clear. No questions were asked as to the amount or cause of the personal debts. Mr B was asked whether he'd applied for other credit and he responded, *"not in this way -No"*. Mr M has shown to us that Mr B was applying for other guarantor loans at the same time, while these may not have been evident to UKC at the time of his application, he'd made clear he was borrowing from other people. So, I think there were several warning signs that UKC should have interrogated further, given what was said to establish Mr B's potential income and outgoings.

So, I have concerns as to whether the income and expenditure information Mr B gave was accurate. And this puts in doubt in my opinion, Mr B's disposable income figures that UKC calculated.

The affordability checks should be "borrower-focused", meaning UKC needed to consider whether repaying the loan sustainably would cause difficulties or adverse consequences for Mr B. In other words, it wasn't enough for UKC to think only about the likelihood that they would get their money back without considering the impact of repayment on Mr B himself.

The Consumer Credit Sourcebook (CONC) 5.2A.20 covers the scope, extent and proportionality of assessment. Its says:

"to satisfy the requirement that the assessment is a reasonable one, based on sufficient information, are dependent upon, and proportionate to, the individual circumstances of each case."

This means what may be a proportionate check for one individual may be different for another. CONC provides a number of considerations that should be made by the lender. Taking the factors outlined above I think given the amount of the loan, and the level of indebtedness. I think UKC should have done further checks to verify Mr B's true financial circumstances. This could have been to check Mr B's bank statements and his self-assessment for his companies' tax returns to give a clearer picture of his income and commitments.

So, taking this all into account, I'm satisfied that proportionate checks weren't completed. But the next question is whether these checks would have shown the loan was unaffordable. As this information isn't available to review, I can't say what UKC would have seen. But I've considered whether UKC did enough to get a reasonable understanding of whether Mr B would more likely than not have been able to make any loan payments without difficulty or having to borrow from elsewhere. I don't think they did, and this is supported by Mr B's direct debit being returned after the first repayment was requested. I can see Mr B did make some

repayments, always late, to the loan mainly by card. But after July 2020, less than 12 months into the loan, Mr B stopped making any further payments. And Mr M was asked by UKC to step in to cover the loan repayments.

So, I don't think UKC lent responsibly to Mr B. And it would then follow that Mr M shouldn't have been accepted as a guarantor for this loan; as it shouldn't have been approved in the first instance.

Putting things right

In order to put things right I ask UK Credit Limited trading as UK Credit to:

- release Mr M from any obligations he has under the Guarantee and indemnity agreement, and then terminate it;
- refund any repayments Mr M has made towards the loan, with 8% simple interest from the date of payment to the date of settlement; †
- remove any information recorded on Mr M's credit file as a result of the loan.

†HM Revenue & Customs requires UK Credit Limited trading as UK Credit to take off tax from this interest. UK Credit Limited trading as UK Credit must give Mr M a certificate showing how much tax they've taken off if he asks for one.

My final decision

I uphold this complaint. And ask UK Credit Limited trading as UK Credit to take the actions as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 June 2022.

Anne Scarr
Ombudsman