

The complaint

Miss J complains Creation Consumer Finance Ltd lent to her irresponsibly.

What happened

The details of this complaint are well-known to both parties, so I won't repeat them again here. The facts are not in dispute, so I'll focus on giving the reasons for my decision.

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've reached the same conclusions as our investigator for these reasons:

- Before lending to Miss J, Creation were obligated to carry out reasonable and proportionate checks so that they could determine whether the repayments for her £13,000 loan would be sustainable for her. Creation hasn't provided us with Miss J's application, nor have they provided much information to demonstrate why they considered the information Miss J gave them met their affordability criteria. So, I've had to base my decision on limited information.
- Creation has said Miss J's loan was taken out in September 2017, and she told them she was working part-time – with a net annual income of just over £13,000. Given the amount of borrowing was similar to Miss J's annual income, I would have expected Creation to carry out a detailed assessment of her financial situation before deciding to approve her loan. That's because she was borrowing a large amount (in comparison with her income), and this borrowing came with an APR of 23.90%. But from the evidence I've seen, I'm not persuaded that's what happened.
- Creation has said they were aware that at the time of application, Miss J was paying £413 towards unsecured loan repayments and had a £5,620 revolving balance – before the repayments for this loan of just over £350 per month. This information alone should have prompted Creation to ask further questions about Miss J's financial situation – particularly given this loan was taken out to consolidate her debts. Had Creation done this, they would have seen Miss J would be left with a disposable income of around £200 per month, after her regular payments debited her account. I don't consider a reasonable business could fairly say this level of disposable income equated to the repayments of this £13,000 loan being sustainable for Miss J's circumstances.
- Miss J has struggled to meet repayments for her loan; and turned to further borrowing to meet her financial commitments. I appreciate Creation weren't expected to predict the future. However, had they carried out sufficient checks, the situation Miss J found herself in would have been foreseeable. In turn, they would have been able to decline her application – and that would have been the reasonable thing to do in the circumstances.

It's for these reasons I consider Creation lent to Miss J irresponsibly, and they need to do something to put things right.

Putting things right

As Miss J has had the benefit of the capital sum, she should repay this. But to put things right, Creation Consumer Finance Ltd should:

- Remove all interest and charges applied to the loan.
- Treat any payments made by Miss J as payments towards the capital amount of £13,000.
- If Miss J has paid more than the capital, refund any overpayments to her with 8% simple interest from the date they were paid to the date of settlement.
- But if there's an outstanding balance, Creation Consumer Finance Ltd should come to a reasonable repayment plan with Miss J.
- If there is any adverse information about the loan on Miss J's credit file, this should be removed.

If HM Revenue & Customs requires Creation Consumer Finance Ltd to deduct tax from this interest, it should give Miss J a certificate showing how much tax is deducted if she asks for one.

My final decision

My final decision is that I uphold Miss J's complaint about Creation Consumer Finance Ltd.

To resolve this complaint, Creation Consumer Finance Ltd should provide the remedy set out in the "Putting things right" section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 26 May 2022.

Sarrah Turay
Ombudsman