

The complaint

Ms J and her representative complain that Clydesdale Financial Services Limited (“CFS”), trading as Barclays Partner Finance, irresponsibly granted them a conditional sale agreement they couldn’t afford to repay.

What happened

In July 2019 Ms J acquired a holiday home, in part financed by a conditional sale agreement from CFS. The total cost of the holiday home was £66,709. Ms J was required to make 60 monthly repayments of £547.69. To fund the balance, she made a total advance payment of £40,049 by way of her existing holiday home plus a cash deposit of £20,000. The total repayable by Ms J under the agreement was therefore £26,660.00.

I understand that Ms J’s agreement was settled early with the help of a family member.

Ms J says that CFS didn’t complete adequate affordability checks. She says if it had, it would have seen the agreement wasn’t affordable. CFS didn’t agree. It said that it carried out a thorough assessment which included a credit score in order to check that Ms J would be able to repay the credit.

Our adjudicator recommended the complaint be upheld. He thought CFS ought to have realised the agreement wasn’t affordable to Ms J. CFS has said it will accept our adjudicator’s view but Ms J remains unhappy with their finding.

The case has therefore been passed to me for a final 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.

CFS will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don’t consider it necessary to set all of this out in this decision.

CFS didn’t verify Ms J’s income before approving the finance. Given the overall size of the borrowing, the monthly repayments and the term of the agreement, I think it would have been proportionate for CFS to have done so to ensure it was affordable.

I also say this as CFS appears to have accepted the income and expenditure information that was given at the time Ms J took out the agreement. This showed Ms J’s monthly take-home pay as being £1,900, her net income as £22,800 and her monthly expenditure as £573. Based on these figures, CFS was prepared to offer Ms J the finance.

From looking at Ms J’s profit and loss accounts I can see that in 2017-18 Ms J had a profit after expenses of around £5,700, that for the year 2018-19 she showed negative income and for the year 2019-20 she had a net profit for her business of around £4,500. I’ve seen copies

of Ms J's tax calculations that broadly support this - and I note that for the year 2019-20 Ms J's income was around £6,000.

I therefore consider that Ms J couldn't afford to sustainably repay the new agreement as well as keep up with the existing commitments for her business, plus her own living expenses. I think CFS would likely have found this out too if it had completed proportionate checks. So it therefore didn't act fairly by approving the finance.

I also think it would have been proportionate for CFS to have found out more about Ms J's committed expenditure, especially given that she was running her own business. I can't be sure exactly what CFS would have found out if it had asked. In the absence of anything else being available at the time, I think it would be reasonable to place significant weight on the information contained in Ms J's bank statements as to what would most likely have been disclosed.

I've also seen copies of five months of bank statements leading up to the lending decision, which would have been available to CFS at the time Ms J applied for the credit. These show that during this time, whilst Ms J appears to have been receiving income that averaged around £1,220 per month, her average outgoings were around £1,600. This strongly suggests that Ms J didn't have enough disposable income, after taking account of her business and living expenses, to afford the additional borrowing. CFS therefore didn't act fairly by approving the finance.

I've seen that Ms J and her representative feel very strongly that CFS ought to have done more to carry out reasonable checks before providing Ms J with the finance. But having made the above finding in Ms J's favour, and noting the actions taken by CFS to try and accommodate Ms J when she got into the payment difficulties, I don't think it needs to do anything more. And whilst I've seen that Ms J's representative has explained that Ms J has had further losses as she no longer has her previous holiday home, the redress I've set out below takes into account that the agreement has been fully repaid and Ms J has retained her new holiday home – although I understand it has been her intention to sell it.

Finally, the way we have asked CFS to put things right, as set out below, reflects our standard approach to resolving disputes of this type and I've not seen any compelling reason to depart from that approach here. I appreciate that in Ms J's case it may not be necessary to remove adverse information from her credit file.

Putting things right – what CFS needs to do

As I don't think CFS ought to have approved the lending, I don't think it's fair for it to be able to charge any interest or charges under the agreement. Ms J should therefore only have to pay the original cash price of the holiday home, being £66,709. Anything Ms J has paid in excess of that amount should be refunded as an overpayment.

To settle Ms J's complaint CFS should do the following:

- Refund any payments Ms J has made in excess of £66,709, representing the original cash price of the holiday home. It should add 8% simple interest per year* from the date of each overpayment to the date of settlement.
- Remove any adverse information recorded on Ms J's credit file regarding the agreement.

*HM Revenue & Customs requires CFS to take off tax from this interest. CFS must give Ms J a certificate showing how much tax it's taken off if Ms J asks for one.

My final decision

I uphold this complaint and direct Clydesdale Financial Services Limited to put things right in the manner set out above

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

Michael Goldberg

Ombudsman