DRN-3554979

The complaint

Mrs A has complained that Logbook Money Limited ("LBM") was irresponsible to have agreed credit for her.

What happened

LBM provided Mrs A with a loan of £1,000 in August 2019. The total amount of £2,800, including interest and charges, was to be repaid in 78 weekly instalments of £36 or about £154 a month (figures rounded).

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

Mrs A missed payments from the outset and within six months LBM had instructed a recovery company to collect her car. It seems Mrs A then paid a lump sum to clear her arrears which stopped the collection, but she continued to miss weekly payments throughout 2020. In May 2021 LBM again took steps to collect Mrs A's car which was returned to her when she made another lump sum payment. I understand that Mrs A has repaid £3,436 altogether, including collection charges, and that her account remains open with an outstanding balance of £248.

Mrs A says that LBM didn't look into her finances properly before lending to her. She says that she had defaulted on several existing debts, including short term and guarantor loans and could not afford more credit. Mrs A also complains about what happened when LBM collected her car – she says she was left without her belongings, including her child's pram, which left her unable to leave her house. I understand that the car is still with Mrs A.

One of our investigators looked into Mrs A's complaint and didn't recommended that it be upheld. They found that LBM had carried out a proportionate check before lending to Mrs A and that nothing in the information it had gathered would have highlighted that she couldn't afford to meet her repayments sustainably.

Mrs A didn't accept this recommendation and asked for the complaint to come to an ombudsman to review and resolve. The complaint came to me and I issued a provisional decision on the 17 May 2022 explaining to both parties why I thought Mrs A's complaint should be upheld. LBM didn't agree with my decision and provided further comments and new information for me to consider.

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.

In response to my provisional findings, LBM said that it reviewed its assessment and still thought that the loan would have been affordable for Mrs A. It said that it only lends where affordability allows, that it treated Mrs A with forbearance and the current outcome was very unfortunate. LBM offered to write off any outstanding balance on Mrs A's account to bring the matter to a close.

I want to reassure LBM that I have carefully considered everything it's said and have reviewed my provisional conclusions in the light of its response. Having considered everything again, I remain of the view that LBM was irresponsible when it agreed to lend to Mrs A on this occasion because it should have seen that the loan was likely to be unaffordable for her, she was having some difficulty managing her existing debt and agreeing another loan for her meant she would need to pay a significant proportion of her income each month repaying debt. I appreciate this will be very disappointing for LBM and I will set out again my reasons for upholding Mrs A's complaint and address its additional points where relevant.

As I'd said in my provisional decision, LBM will be aware of the relevant regulations so I will summarise them here. LBM needed to check that Mrs A 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. LBM was required to take reasonable steps to estimate Mrs A's income and (non-discretionary) expenditure, and to estimate any reductions in income where it was reasonably foreseeable that a reduction was likely. LBM also needed to have regard to any information of which it was aware at the time that might have indicated that Mrs A was in, had recently experienced or was likely to experience, financial difficulties.

One of the rules set out by the regulator stated that a business must not accept an application for a loan where it suspects that the applicant has not been truthful in completing it, for example where the information declared might be inconsistent with other information (CONC 5.2A.36R). The overarching requirement was that LBM needed to pay due regard to Mrs A's interests and treat her fairly. CONC 2.2.2G(1) gave an example of contravening this 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 LBM complete reasonable and proportionate checks when assessing Mrs A'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 LBM make a fair lending decision?

I said in my provisional decision:

"LBM provided this Service with the information it relied on in making its lending decision. This included figures for Mrs A's weekly income and expenditure of £575 and £191 respectively, which left her with an estimated £384 a week surplus, or over £1,600 a month. It doesn't seem plausible to me that Mrs A would actually have this amount to spare each month yet want to borrow considerably less than this, pay interest and use her car as security. LBM says it conducted a thorough income and expenditure assessment, including a review of Mrs A's latest two months bank statements. It was unable to provide copies of the statements and didn't give a date range, but I've assumed they would cover July and August 2019.

I think LBM was right to ask Mrs A about her income and expenditure and look to independently verify this information. She 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. But this doesn't automatically mean I've concluded that LBM made a fair lending decision. I've reviewed the information LBM gathered from Mrs A and copies of the bank statements she's provided. Having reviewed everything, I currently think LBM got some things wrong in its assessment and didn't take all the information it had into account before entering into a credit agreement with Mrs A.

As mentioned LBM recorded a figure of £575 for Mrs A's weekly income comprising £160 of wages, £390 in benefits and £25 from a pension. I think these figures might be broadly correct but, with respect to LBM, I don't think it recorded the payment frequency correctly and so overestimated Mrs A's income. According to what Mrs A has told us and what I can see on the bank statements, the correct breakdown seems to be as follows:

£178 child tax credits paid weekly;
£138 of child benefit paid every four weeks;
£29 of DWP Income support paid every fortnight;
£200 of DWP carer's benefit paid every four weeks;
£26 of pension weekly (£111 paid monthly).

This gave Mrs A an income of approximately £300 a week or less than £1,300 a month. There are monthly deposits into her account of £328 DWP disability living allowance. I understand this was her son's benefit, confirmed by the different national insurance number and I have disregarded these as being available to help meet Mrs A's loan repayments. There are also monthly deposits of over £400 which I understand were housing benefit payments covering Mrs A's rent.

LBM recorded a figure of £191 for Mrs A's weekly expenditure, which included an amount of £92 for rent. As this was covered, LBM estimated that Mrs A was left with expenses of about £100 a week or about £430 a month. However, it's clear from Mrs A's bank statements that her expenses were far higher than she'd declared and there were some which were not captured in LBM's assessment. For example, Mrs A's running costs for her car were about £75 higher a month and her spend on food significantly higher by at least £300 a month. She incurred monthly telephone charges of £65 and water charges of £70, all of which added about £500 to Mrs A's monthly expenses.

Furthermore, Mrs A's bank statements show a monthly repayment of £158 to a high cost guarantor lender and £20 a week to a debt recovery company which is one of the main companies used by the courts. A lump sum payment of £150 was paid to this company in August. Mrs A was also making payments of £10 a week to a second debt collection company and, altogether, it seems to me that she was having problems managing her existing commitments. Mrs A was spending about £280 a month on repaying existing debt. These payments combined with the repayments for a new loan would mean she'd potentially need to pay about £440 a month or a third of her income on debt.

Altogether, I've estimated that Mrs A was spending at least £1,200 on her existing financial commitments and some of her living costs, not including non-food related household spend, clothing or entertainment for example. I think had LBM considered everything fully, it would have realised that it was unlikely Mrs A would be able to meet her repayments for this loan without difficulty. So I currently think it treated her unfairly when it agreed to lend to her. Mrs A's ended up paying interest and charges and potentially had her credit file adversely impacted, and LBM needs to take steps to put things right for her."

In response, LBM provided a copy of the open banking information it relied on in its assessment. It confirmed this was requested and used at the time. This information shows transactions for Mrs A's main bank account in the months of June, July and August 2019.

LBM said it has a robust assessment process in place, part of which involves an income and expenditure assessment, arrived at through a verbal interview with loan applicants in conjunction with bank statements as supporting evidence. It said it reviewed the assessment along with the transaction evidence and still found the loan repayments to be affordable for Mrs A.

LBM said that Mrs A told it she was employed and earning £550 a month. However, as it couldn't evidence these wages on the transactions it disregarded this income, along with the disability living allowance payments I've mentioned above. It estimated that Mrs A had combined income of £372 a week, or £276 excluding the £96 of housing benefit which was paid to her to meet her rent. This is broadly in line with my findings that Mrs A had about £300 a week income (excluding her housing benefit). LBM said that it believes Mrs A was working and may have had wages paid into another account or received them in cash. I've reviewed bank statements for three of Mrs A's bank accounts and have seen no evidence of income from employment so I think LBM was right to disregard this possibility.

LBM's revised estimate of Mrs A's expenses is £190 a week (excluding her rent and council tax). Its original estimate was about £100 a week for these costs and this new estimate includes the following: £11 for gas and electricity payments; £17 for water; £32 for car running costs; £15 for mobile and internet bills; £65 for food and grocery shopping and £50 to cover existing debt repayments.

However, as evidenced on the transaction report, Mrs A's expenses were higher again than LBM's latest assessment. Mrs A was paying more than £50 a week on her existing debts as she paid £30 to two debt collection companies and £158 a month or £37 a week on average to her guarantor loan. Mrs A also had other regular costs, for example insurance and local supermarket spend amounting to on average £15 a week (in the two months preceding the loan). LBM also knew that £11 a week for utility bills was too low – it had a copy of Mrs A's annual electricity summary which shows she'd spent almost £1,200 on electricity alone in the year up to August with an estimate of £1,300 for the next year. Mrs A has provided me with evidence of her gas bill estimate of £700, so her average weekly costs for gas and electricity could come to about £40, at least £30 more than estimated as these would fluctuate seasonally.

Without considering anything else (for example entertainment, holidays, shopping or child-related costs), I remain of the view that Mrs A was left with too little to cover her usual expenses or to meet any unexpected costs alongside the loan repayment without difficulty. I think LBM should have realised this from the information it had. It also knew that Mrs A was paying some of her debt through collection companies and agreeing another loan for her would commit her to paying about a third of her income each month on debt. Altogether, I think LBM treated Mrs A unfairly by agreeing to lend to her on this occasion.

As I'd said in my provisional decision, I've also considered what happened when Mrs A had problems meeting her repayments and LBM collected her car. I can see from the customer notes that this happened a few months after she told LBM that she'd had a new baby. Mrs A says "the agent removed the car in the early hours not giving me any opportunity to remove my young baby's belongings. I couldn't even leave the house as I had no pram which was in the car".

Having considered this point again, I still don't have enough information to find that LBM was wrong to have taken Mrs A's car. However, I've found that LBM shouldn't have agreed to lend to Mrs A and she was without the use of her car for a time as a consequence of this unfair lending decision. As set out on our website, an award of between £100 and up to £300 might be suitable where a business's actions have resulted in an impact that lasts a few days, or even weeks, and causes some distress and inconvenience. I think that Ms L suffered distress and inconvenience when her car was taken and she needed to take steps to recover it. And so I think that an award in this range would be appropriate.

Putting things right

I understand that Mrs A has repaid more than the capital she borrowed and there is a relatively small outstanding balance on her account. In order to put things right for her LBM should:

a) Waive the outstanding balance on the account; and
b) Refund to Mrs A payments she made above the amount of £1,000 she borrowed. To be clear this includes any interest or charges associated with the credit or its collection; and
c) Add 8% simple interest per annum to these overpayments from the date they were paid to the date of refund; and
d) Pay Mrs A an amount of £200 to reflect the distress and inconvenience she experienced when it recovered her car; and
e) Remove any adverse information about this loan from Mrs A's credit file; and
f) Revoke the Bill of Sale for Mrs A's car if this is still in place and return any relevant documents to her if it hasn't already done so.

*HM Revenue & Customs requires LBM to deduct tax from this interest. It should give Mrs A 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 Mrs A's complaint about Logbook Money Limited and it should put things right as I've outlined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 19 July 2022.

Michelle Boundy
Ombudsman