

The complaint

Mr W complains that Madison CF UK Limited, trading as 118 118 Money, lent to him irresponsibly and without carrying out proper affordability checks. He would like all the fees and charges associated with the loan refunded.

What happened

In January 2015 118 118 Money approved a loan of £1,500 for Mr W, which was scheduled to be repaid at approximately £181 per month over a term of 12 months. The loan appears to have been to fund the purchase of electrical goods. When assessing the application, 118 118 Money asked Mr W about his financial circumstances and carried out a credit check before approving the lending.

Unfortunately, it seems that Mr W quickly ran into financial difficulties in April 2015 and appears to have made no further payments since August 2015. 118 118 Money sold the balance of the loan to a third party debt collector in June 2018.

The adjudicator looked at the evidence and concluded that 118 118 Money should not have granted this loan, as it should have been clear that repaying it couldn't have been sustainable for Mr W. 118 118 Money did not accept that, and asked an Ombudsman to review the case.

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 it, and I'll explain why.

118 118 Money is aware of its obligations under the rules and regulations in place at the time of this lending decision, including the Consumer Credit Sourcebook ("CONC"), so I won't repeat them here. But, briefly, it was required to carry out sufficient checks to ensure that Mr W would be able to repay the borrowing applied for in a sustainable way. As set out in CONC 5.3.1G(2) that means that he could manage the repayments,

"...without...incurring financial difficulties or experiencing significant adverse consequences"

Essentially, Mr W needed to be able to meet his financial commitments and not have to borrow elsewhere to repay 118 118 Money for the loan to be considered affordable and sustainable.

Did 118 118 Money carry out proportionate checks before granting this loan?

The adjudicator thought that 118 118 Money had enough information to identify that this borrowing wasn't sustainable and affordable for Mr W. That was because of the proportion of his income needed to service his total debt burden.

118 118 Money didn't accept that, highlighting that this factor in and of itself might not be enough to indicate that borrowing would be unsustainable. In this case, I accept 118 118 Money's point, noting for example that Mr W told it that he lived with his parents, so therefore likely had little or no direct liability for housing costs or bills.

But the validity of 118 118 Money's submissions on this point doesn't mean that the outcome of this case changes.

118 118 Money asked Mr W some basic questions about his income and expenditure and carried out a credit check when considering his loan application. The information 118 118 Money found from its checks should have concerned it and led it to carry out additional checks to get a clearer picture of Mr W financial circumstances. In brief, the concerns flagged by the credit check obtained were:

- That Mr W did indeed need a large proportion of his income to service debt – which may be an indicator of potential difficulty.
- Arrears and/or late payments indicated.
- Credit card accounts either at or over their agreed limits.

In aggregate, these issues suggested all may not be well with Mr W's finances, and meant that further checks were indicated, but not carried out.

What would 118 118 Money have found had it done proportionate checks?

When considering this second question, our service has had the benefit of several months of bank statements to review. I accept that there was and is no requirement on a lender to obtain any particular type of information: they are permitted to source and rely on a range of evidence when assessing affordability, and so 118 118 Money could have opted to gather more information about Mr W's financial position in a range of ways. However, it didn't, and, in the absence of anything else provided, I'm happy to rely on the statements to demonstrate what Studio would most likely have discovered if it had completed proportionate checks.

The relevant statements suggest that Mr W had some financial. Of key concern are the following issues evident from the bank statements:

- A lower income than that declared.
- Mr W's account was almost never in credit, and he was clearly reliant on borrowing via an agreed overdraft.
- Unpaid transaction fees.
- Unarranged overdraft fees when Mr W exceeded his agreed limit.

So I have seen no evidence of any genuine disposable income with which Mr W could have made repayments. It is an almost inescapable conclusion, therefore, that he would have had to borrow to do so. I have already explained that, under the rules in force, that does not equate to the lending being affordable and sustainable for him. It therefore follows that I uphold this complaint.

Putting things right

As stated above, the debt was sold to a third party in 2018. 118 118 Money should buy the debt back if it is able to do so and then take the following steps. If it is not able to buy the debt back, then it should liaise with the new debt owner to achieve the results outlined below.

- It must remove all interest, fees and charges from the balance on the outstanding loan, and treat any repayments made by Mr W made towards the loan as though they had been repayments of the principal loan amount of £1,500.
- If that means that Mr W would have made overpayments, then it must refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled.
- Alternatively, if there is still an outstanding balance following the account restructure, then 118 118 Money should try to agree an affordable repayment plan with Mr W.
- It must remove any adverse information recorded on Mr W's credit file in relation to this loan, once it has been repaid.

*HM Revenue & Customs requires 118 118 Money to deduct tax from this interest. It should give Mr W a certificate showing how much tax it's deducted, if he asks for one.

My final decision

For the reasons I've explained, I uphold this complaint and direct Madison CF UK Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 29 December 2022.

Siobhan McBride

Ombudsman