

The complaint

Mrs B complained that UK Credit Limited lent to her irresponsibly and provided her with an unaffordable loan.

What happened

Mrs B was given a loan by UK Credit as follows:

Date taken	Loan amount	Number of monthly instalments	Monthly repayment*	Total payable
May 2018	£3,000	36	£134.10	£4827.60

Mrs B told UK Credit the loan was mainly for debt consolidation – in other words, she would use part of the loan to repay other debt - and she would put £1,000 or so towards wedding costs.

One of our investigators reviewed Mrs B's complaint.

In summary, he felt that UK Credit couldn't be fully certain this loan was affordable because it had relied on automated checks and a pounds and pence affordability calculation without manual evidence. So he didn't think that UK Credit should've provided the loan and recommended upholding the complaint.

UK Credit disagreed with our investigator's view. In summary, it said that in the absence of bank statements, there was nothing to suggest that UK Credit was wrong in lending to Mrs B and no evidence that Mrs B suffered any financial harm because of the loan. It felt that the loan was affordable and sustainable and that this was borne out by her payment history with UK Credit.

The complaint came to me to decide. I issued a provisional decision.

What I said in my provisional decision

Here are some of the main things I said.

"The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out. Lenders must work out if a borrower can sustainably afford the loan repayments alongside other reasonable expenses the borrower also has to pay. This should include more than just checking that the loan payments look affordable on a strict pounds and pence calculation – a proportionate check might also find out the borrower's credit history and/or take further steps to verify the borrower's overall financial situation.

If reasonable and proportionate checks weren't carried out, I need to consider if a loan would've been approved if the checks had been done. If proportionate checks were done and a loan looked affordable, a lender still needed to think about whether there was any other reason why it would be irresponsible or unfair to lend. For example, if the lender should've realised that the loan was likely to lead to significant adverse consequences or more money problems for a borrower already struggling with debt that can't be repaid in a sustainable way.

In this case, UK Credit asked Mrs B about her income and did an electronic check to verify her pay. It also carried out its own credit checks. And, during a phone call with Mrs B (which I've listened to) UK Credit asked about her expenses and questioned her about the results of its credit checks to understand her existing credit commitments and her credit history.

UK Credit recorded a figure of £1,550 net salary per month. After doing its own background checks and carrying out its affordability assessment, UK Credit worked out that after using the loan to consolidate some of her debt, Mrs B should still have been left with around £553 spare cash. So this led UK Credit to conclude that the loan monthly repayments should be affordable for Mrs B – as long as she consolidated her debt. It warned her that she might not find the loan affordable otherwise.

I've taken carefully into account everything UK Credit has said in response to our investigator's view about the way it assessed affordability. And I've thought carefully about what I think a responsible lender should have made of all the information it had gathered and in particular whether it was enough for UK Credit to make a fair decision to lend.

Our investigator thought UK Credit needed to do further checks before agreeing this loan and I agree.

I say this because it was aware that Mrs B had a history of reliance on expensive high cost credit and there were signs that she was over-stretched financially. She had used all her available credit on a credit card (she was £20 over the card limit at the time) and she had fallen behind with her contractual payments owing on a payday loan around 4 months earlier and not been able to make this up. When she applied for this loan, it looked like she was three payments in arrears. The monthly repayments were just £140 which means they ought to have been manageable for Mrs B according to UK Credit's affordability assessment. Mrs B wasn't able to give any meaningful explanation when asked about this. So I think this issue seemed to be at odds with the information UK Credit was relying on to establish affordability. As well as this, UK Credit knew from its discussion with Mrs B that she had other outstanding credit not shown in the credit report it had obtained, so it had good reason to think the information it had gathered was incomplete.

I think UK Credit needed to do more in-depth checks to ensure it had a proper understanding of Mrs B's financial situation – especially as it knew that its lending margins were tight and the loan would only be affordable for Mrs B if it had correctly understood the impact of her debt consolidation plans.

UK Credit hasn't shown me that it carried out what I consider would've been proportionate checks in these circumstances. This means I need to consider what it's likely a proportionate check would've shown had this been done.

UK Credit has referred to the fact that Mrs B hasn't provided bank statements and suggested that this means there isn't anything to show that UK Credit was wrong to lend this loan. But I take a different view.

I've looked at a credit report provided by Mrs B which I think gives a useful guide to understanding her overall financial situation at the time. And I think, if UK Credit had done a proportionate check before lending, it would've likely realised that all the indications were that Mrs B couldn't afford this loan.

I say this because better checks are likely to have shown that, in reality, Mrs B was paying monthly repayments to creditors totalling at least £1,100.

So, broadly speaking, the amount she would need to spend servicing her existing credit commitments would likely exceed two thirds of her take home pay. Experience tells us that this is generally an unsustainable position for a borrower. And, in Mrs B's case, that's borne out by the fact that UK Credit established that her living costs and other normal expenditure amounted to £557 – meaning her total outgoings were more than her take home pay each month.

Even allowing for some variation in these figures, I think UK Credit should have realised, had it done a proportionate check, that Mrs B didn't have the surplus cash she needed to be able to pay the monthly repayments for this loan.

I've taken into account that UK Credit believed that the loan was intended for debt consolidation. I think it's fair to say that, as a responsible lender, UK Credit did tell Mrs B she would need to pay off other debt in order to afford its loan.

But UK Credit's checks don't appear to show that Mrs B had already taken out another £3,000 loan with a different provider of high cost credit just a couple of months earlier and the bulk of that loan was currently outstanding. So, regardless of which debt she may have chosen to consolidate, in reality I don't think UK Credit had sufficient reason to think this would've improved her overall position enough to achieve a significant and sustainable improvement in Mrs B's financial situation – given her outstanding indebtedness overall.

And it's hard to understand how, even with debt consolidation, this loan was going to improve Mrs B's day to day financial situation so that her lending would become sustainable for her.

All the indications were that she would most likely remain in serious financial trouble regardless. And I believe that if UK Credit had done a proportionate check it ought reasonably to have been aware that this loan was likely to be detrimental to Mrs B and recognised that it shouldn't have provided it. So, UK Credit needs to put things right.

In coming to my decision I've thought carefully about everything UK Credit has said, including its detailed responses to our investigator's view. UK Credit has helpfully set out its position in some detail and I acknowledge that it has taken a different view to me. I have concentrated on what I consider to be the main points that affect the outcome of this complaint and I hope that setting things out as I've done helps to explain how I've reached my conclusions. I invite UK Credit to reconsider its position.

The fact that Mrs B made the loan repayments without any evident difficulty doesn't mean that she was able to do so sustainably. She continued to take out expensive credit – effectively borrowing from one lender to pay others – which I think would've been a reasonably foreseeable consequence of this lending had UK Credit carried out proportionate checks before agreeing to provide this loan.

And whilst I think it's fair to say that UK Credit was entitled to take account of what Mrs B said in support of her application, it also had a responsibility to carry out sufficient checks to be able to satisfy itself that it was fair to lend and that the loan would be sustainably affordable for her.

I don't agree that there isn't enough evidence for me to fairly say that this loan was detrimental to Mrs B. As Mrs B has been further indebted with a high amount of interest and charges on a loan that she shouldn't have been provided with, I'm satisfied that she has lost out as a result of what UK Credit did wrong. And the credit report she has sent me shows that Mrs B continued to be over-reliant on credit and her financial situation deteriorated further after taking out this loan. So what UK Credit has said isn't enough to make me think it would be fairer not to uphold this complaint.

Finally, I haven't overlooked the fact that Mrs B mentioned the possibility of an income from a second job. There wasn't a lot of information about this – UK Credit thought her main income might be boosted by up to £100 or so more per month. But this wouldn't have been enough to change the outcome of the complaint so I don't think I need to say more about this.

Our investigator didn't recommend that UK Credit should pay any additional redress. Mrs B hasn't commented on that and I haven't seen anything which makes me think UK Credit acted unfairly towards Mrs B in any other way. So I'm not planning on awarding any additional redress.

And I think it is fair and reasonable for Mrs B to repay the capital amount that she borrowed, because she had the benefit of that lending. But she has been charged extra for a loan that should not have been provided to her. In line with this Service's approach, Mrs B shouldn't repay more than the capital amount she borrowed. So I've set out below the steps UK Credit needs to take to put things right."

What the parties said in response to my provisional decision

Mrs B's representative has told us that Mrs B is happy with what I've said in my provisional decision.

UK Credit has confirmed that, after reviewing my provisional decision, it has nothing further to add and will await my final decision.

As I have now heard from both parties I think it's reasonable for me to proceed with my review of this complaint.

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.

We've set out our approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding this complaint.

I'd like to thank both parties for all the information that has been provided about this matter and UK Credit in particular for responding so promptly to my provisional decision. Given that I've not received any further evidence or comment that changes my mind about this complaint, I confirm the conclusions I reached in my provisional decision.

Putting things right

UK Credit should do the following:

- add up the total amount of money Mrs B received as a result of having been given this loan. The repayments Mrs B made should be deducted from this amount.
- If this results in Mrs B having paid more than she received, then any overpayments should be refunded along with 8% simple interest* (calculated from the date the overpayments were made until the date of settlement).
- If any capital balance remains outstanding, then UK Credit should attempt to arrange an affordable/suitable payment plan with Mrs B.
- Whilst it's fair that Mrs B's credit file is an accurate reflection of her financial history, it's unfair that she should be disadvantaged by any adverse information recorded about a loan that was unfairly provided. So UK Credit should remove any negative information recorded on Mrs B's credit file regarding the loan.

*HM Revenue & Customs requires UK Credit to deduct tax from this interest. UK Credit should give Mrs B a certificate showing how much tax has been deducted if she asks for one.

My final decision

I uphold Mrs B's complaint and direct UK Credit Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 11 August 2022.

Susan Webb
Ombudsman