

The complaint

Miss M has complained that CarCashPoint Limited ("CCP") was irresponsible to have agreed credit for her.

What happened

CCP provided Miss M with a loan of £530 in January 2019. The total amount of £2,438 including interest and charges was to be repaid in 36 monthly instalments of £68 (figures rounded).

This was a 'log book' loan, in other words it was granted on the basis that Miss M provided CCP with a bill of sale for her car. This meant that if Miss M didn't make her loan repayments CCP could potentially recoup its losses through the sale of her vehicle. I understand Miss M missed payments from late 2019 and her account was mostly in arrears until it closed in March 2022. Miss M says that she wasn't in a financial position to take out the loan when it was agreed. She says she was living on benefits and had no money in her bank account.

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

Miss M didn't accept this recommendation and asked for the complaint to come to an ombudsman to review and resolve.

I reviewed the complaint and sent a provisional decision to both parties on the 12 July 2022 explaining why I was minded to uphold it. I allowed two weeks for the parties to send me any comments about the provisional decision or new information they wished me to consider.

Miss M accepted my decision and provided some further information about her costs at the time of the loan. CCP didn't respond to my provisional decision, but it had shared further comments and information with us following on from my review of the complaint.

This is my final decision on the matter and will be legally binding if Miss M chooses to accept it.

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 decision, Miss M said that her costs were higher than I'd estimated. This doesn't change my view of her complaint, as I'd provisionally found that CCP shouldn't have agreed to lend to her based on the information I'd reviewed. Having considered everything again, I remain of the view that CCP was irresponsible to lend to Miss M on this occasion. I appreciate that will be a disappointing outcome for CCP and I'll set out again my reasons and conclusions in this final decision.

As I'd said in my provisional decision, CCP will be aware of the relevant regulations so I will summarise them here. CCP needed to check that Miss M 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. CCP was required to take reasonable steps to estimate Miss M's income and (non-discretionary) expenditure. CCP also needed to have regard to any information of which it was aware at the time that might have indicated that Miss M 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 CCP needed to pay due regard to Miss M'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 consideration is did CCP complete reasonable and proportionate checks when assessing Miss M'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 CCP make a fair and responsible lending decision?

CCP says it completed substantive checks and reviewed the affordability and sustainability of the loan for Miss M before lending to her. It provided a record of its income and expenditure assessment and the snapshots of the bank account statements it relied on.

CCP said in its final response to Miss M about her complaint that it verified her benefits income to her bank statements as part of its affordability review and that the loan amount was restricted to £500 (plus its agent's fee of £30) as her income was solely based on benefits. CCP also said that Miss M provided evidence of her council tax and rent payments being made and her bank account statements showed that her account was being maintained within its £2,000 overdraft limit.

The snapshots provided by CCP show current account transactions for two weeks in January 2019 and savings account transactions for 23 November 2018 to 9 January 2019. The latter are mostly transfers. CCP said that it didn't see any further transactions but that there was no evidence of failed or problem payments in the transactions it saw, or any other signs of general financial difficulty. It said Miss M stated that she did not have any current high court judgements, was not party to any IVA/bankruptcy proceedings, and was not in arrears or in debt with any financial obligations.

I think CCP was right to ask Miss M about her income and expenditure and look to independently verify this information. After all, she would need to meet her repayments for three years and the consequences of not doing so were potentially serious in that she might lose her car. However, I've reviewed the information CCP gathered from Miss M and I think CCP got some things wrong in its assessment and should have looked into Miss M's circumstances further before agreeing to lend to her.

CCP recorded figures for Miss M's monthly income and expenditure of £1,000 and £515 respectively, which left her with an estimated £485 a month surplus. It doesn't seem plausible to me that Miss M would actually have this amount to spare each month yet want

to borrow £530, pay interest and use her car as security. The income figure of £1,000 isn't quite right as Miss M's income varied and could be as low as £955, as borne out by the snapshots of her bank account. The monthly expenditure figures CCP recorded came to a total of £515 made up of:

£300 rent
£35 council tax
£60 gas, electricity and water
£100 food
£20 family spend

I think there are some obvious omissions from these expenses for example car costs, mobile phone or internet bills (noted by CCP as being paid annually but with no associated expense recorded). I also think CCP's estimate of Miss M's monthly food costs is not consistent with her banking transactions. The two weeks of current account transactions show about £100 spent in supermarkets and convenience stores. In addition, while CCP says it didn't see any failed or problem payments in the two week's transactions it had sight of, the transactions showed that Miss M's bank balance for her current account was less than a pound, despite her £2,000 overdraft.

Altogether, I don't think CCP did enough here to check that the loan would be affordable for Miss M without causing her difficulty. I don't think the assessment was proportionate, and CCP should have considered that a more rigorous assessment was needed here given the circumstances of the loan and the omissions and inconsistencies I've highlighted.

We have statements for some of Miss M's bank accounts and I've reviewed these to inform what I think a more rigorous check would likely have revealed. I can see from these that Miss M's food spend was higher even than £200 a month, she had car insurance and car tax costs of about £50 a month and petrol costs of over £100. Miss M had a subscription package for internet and tv costing over £100 a month. She was also making payments to a debt management company of £20 and was paying interest and charges on her £2,000 overdraft.

Furthermore, Miss M had no available funds when CCP checked her transactions. It should have been obvious to CCP that Miss M was living in her overdraft and was likely to be meeting her loan repayments from these borrowed funds also. Her bank statements show that she'd had this level of overdraft for at least a year and continued to do so for at least a year after taking out this loan.

I shared this information and my view of it with CCP and it said that it still considered the loan to have been affordable for Miss M. It said "Even assuming the lower income range of £955.51 we still consider this affordable. Declared expenditure of £515, plus additional £100 for food, £50 car insurance, petrol £100 and [debt management payments of] £20. We would regard [a] subscription of c£100 per month to be at largely discretionary with an estimate for internet of £40 per month being acceptable. This would result in a net disposable income of £130.51. We still consider this is sufficient and affordable to cover the repayments of £67.73 plus the small overdraft charges, particularly in the context of us taking a conservative range of the benefits income and the understanding that the customer would soon be returning to work."

Leaving aside the question of whether or not an existing subscription is a discretionary cost, CCP's revised cost estimate leaves Miss M with about £60 a month surplus to meet other costs after meeting her loan payment. I've mentioned for example mobile phone costs and overdraft fees, and Miss M's circumstances were such that she had at least one dependent

and there was no account taken of any child-related costs. I think there was a high risk here that the loan was unaffordable for Miss M out of her usual means without her having to borrow to repay it. I also think it's likely that a more rigorous assessment would have confirmed this and so I've concluded that CCP made an irresponsible lending decision on this occasion.

CCP mentioned that Miss M said she would soon be returning to work. I don't think CCP could rely on this happening as a factor in its assessment without having gathered any evidence of this potential increase in income. I note that CCP didn't seem to take this into consideration when determining the amount of money it was willing to lend.

In my review of Miss M's bank statements I noted a large payment into her account in August 2018. I asked Miss M about this and she explained it was a compensation payment and that the money was spent on home improvement and home goods, debt consolidation and a car purchase. She says she'd spent all of this by October 2018, and this does seem to be the case from the bank statements I've seen. So I don't think Miss M had an amount of savings she could potentially have used to meet these loan repayments.

CCP said that Miss M maintained her account in good order until it was settled in March 2022, though it does go on to say that it removed £135 of fees and wrote off £251 of interest to assist her on settlement. The statement of account CCP provided shows that Miss M made late payments throughout the loan term and ran her account with an arrears balance. I haven't seen any customer contact notes so I don't know how her account was managed beyond what this statement of account shows. However, Miss M's ended up paying interest on this loan which I don't think should have been agreed and potentially had her credit file negatively impacted. I think CCP needs to put this right for Miss M and I've set out below the steps it should now take.

Putting things right

I understand that the loan has now been repaid and Miss M's account settled. In order to put things right for her CCP should:

- Refund to Miss M payments she made above the amount she borrowed. To be clear this includes any interest or charges associated with the credit or its collection, including the agent fee of £30 it added to the loan; and
- Add 8% simple interest per annum to these overpayments from the date they were paid to the date of refund; and
- Remove any adverse information about this loan from Miss M's credit file; and
- Revoke the Bill of Sale for Miss M'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 CCP to deduct tax from this interest. It should give Miss M a certificate showing how much tax it has deducted, if she asks for one.

My final decision

For the reasons set out above, I'm upholding Miss M's complaint about CarCashPoint Limited and it needs to put things right as I've outlined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 24 August 2022.

Michelle Boundy
Ombudsman