DRN-3771775

The complaint

Mr S complains that Fairscore Ltd trading as Updraft lent to him irresponsibly.

What happened

Mr S was provided with the following loans by Updraft:

-12 February 2021 £3000 over a term of 36 months repayments £117.80

-8 October 2021 £4500 over a term of 36 months repayments £161.91

Mr S brought his irresponsible lending complaint to this service. He says repaying the loans caused him financial difficulties.

Updraft sent us information relating to the loans and details of the payments made. It also sent us information about the checks it carried out prior to lending to Mr S.

Our adjudicator looked at the complaint. She said she didn't think Updraft had lent to Mr S irresponsibly in relation to the first loan, but that it had lent irresponsibly in relation to the second loan.

Updraft didn't agree. It acknowledged that Mr S's credit commitments had increased between the first and second loan but said that if Mr S had used the loan for the purpose he requested it for (payment of credit cards) this would've resulted in a smaller percentage of his monthly income being used for credit commitments.

The complaint has 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.

We have set out our general approach to irresponsible lending on our website.

Updraft needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice, this means that it should have carried out proportionate checks to make sure Mr S could repay the loans in a sustainable manner. These checks could include several different things, such as how much was being lent, the repayment amounts and Mr S's income and expenditure and credit history.

In the early stages of a lending relationship, less thorough checks might be reasonable and proportionate. But certain factors might point to the fact that Updraft ought to have done more to establish that the lending was sustainable for Mr S. Updraft was required to establish that Mr S could sustainably repay the loan – not just whether loan repayments were affordable on a strict pounds and pence calculation.

The loan repayments being affordable on this basis might be an indication that Mr S could sustainably afford the repayments. But it doesn't automatically follow that this is the case. This is because CONC defines "sustainable" as being the ability to repay without undue difficulties. So the borrower should be able to make repayments on time, whilst meeting other reasonable commitments, and without having to borrow to meet the repayments. It follows that the lender should realise – or ought reasonably to realise - that a borrower will not be able to make repayments sustainably if they need to borrow further in order to do that.

I've looked at the details relating to Mr S's application. And I've thought about whether Updraft carried out reasonable and proportionate checks before lending to Mr S.

Loan 1

Mr S told Updraft that his annual income was around £27,900. Updraft used this information to check whether the loan was affordable. It calculated net monthly income as £1817 and existing credit commitments as £583, with expenditure at £601, leaving monthly disposable income of £632.

Updraft reviewed Mr S's credit file and found no defaults or missed payments.

I haven't seen any information which shows that Updraft was made aware, or had cause to be concerned, about any financial problems Mr S might have been having. There was nothing to prompt Updraft to carry out further checks.

Based on what I've seen, I think it was reasonable for Updraft to rely on the information it obtained. I think the checks were reasonable and proportionate and that the decision to lend was fair.

Loan 2

Mr S applied for this loan around 8 months after the first loan. His net monthly income was around the same as before, but his existing monthly credit commitments had increased from £583 to £885, leaving net monthly disposable income of £336.

Updraft reviewed Mr S's credit file and found no adverse information.

Mr S's existing credit commitments had increased significantly in a relatively short period of time, and he was repaying over £1000 per month to meet his credit commitments (including the second loan) which was over 50% of his monthly income. With such a high percentage of Mr S's monthly income being used to pay credit commitments, I don't think the loan repayments were affordable for him and I don't think the decision to lend was fair. I think it was irresponsible of Updraft to create further indebtedness.

Putting things right

To settle Mr S's complaint, Updraft should:

Add up the total amount of money Mr S received as a result of being given the second loan. The repayments Mr S made should be deducted from this amount.

If this results in Mr S having paid more than he received, any overpayments should be refunded along with 8% simple interest calculated from the date the overpayments were made to the date of settlement *

If any capital balance remains outstanding, Updraft should arrange an affordable repayment plan with Mr S

Remove any negative information from Mr S's credit file in relation to loan 2

*HMRC requires Updraft to deduct tax from the interest. Updraft must give Mr S a certificate showing how much tax has been taken off if he asks for this.

My final decision

I uphold the complaint and direct Fairscore Ltd trading as Updraft to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 6 December 2022.

Emma Davy
Ombudsman