

The complaint

Mrs H complains that Premium Credit Limited carried out a hard credit search without her permission.

What happened

In November 2022 Mrs H was using a third party's website to pay her annual fee for her caravan site. She was going to pay for it in ten monthly instalments. She thought she was just setting up a direct debit. But she says that after she had entered her personal details and bank details, a screen came up with the terms and conditions and stated that she would actually be entering into a credit agreement with Premium Credit. As she was also applying or about to apply for a mortgage at around this time, she didn't want a credit agreement. She would rather have paid the whole fee at once.

There is a dispute about what happened next. Mrs H is adamant that she cancelled the application process and came off the website without accepting the terms and conditions and without applying for credit. But Premium Credit still received and processed her application. Premium Credit says this means she must have finished the application, and is mistaken when she says she didn't.

As part of processing her application for credit, Premium Credit carried out a hard credit check, meaning a credit search which is recorded on Mrs H's credit file where other lenders can see it. This caused her considerable anxiety and distress because she did not believe she had authorised a credit search and had specifically tried to avoid one, and she was worried about the possible effect on her mortgage application.

Mrs H complained, as she was adamant that she had never clicked on the "I accept" button on the terms and conditions page. Premium Credit cancelled the agreement and also arranged for the hard credit check to be removed from her credit file. But Mrs H was not satisfied with that, and referred this complaint to our service. She said that she had been in the middle of applying for the largest mortgage she could afford, and so the unwanted credit search could have been "catastrophic" for her. She said she was willing to have her laptop computer forensically examined to verify how far she had got on the website's application procedure. (Unfortunately this is not a service we offer.)

Our investigator did not uphold this complaint. He thought that the evidence showed that Mrs H must have submitted her loan application, because otherwise Premium Credit would not have received it. Premium Credit had therefore been entitled to carry out the search, and was not responsible for her distress. But as Premium Credit had also cancelled the agreement and removed the search, it had restored her to the position she would have been in (other than emotionally) if nothing had happened.

Mrs H did not accept that opinion. She asked for an ombudsman to review her 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 do not uphold it. I will explain why.

Firstly, Premium Credit cancelled the agreement on the day after Mrs H used the website, and arranged to remove the hard credit search seven days after that. Since it can take a month for information to appear on a credit file (it doesn't happen instantly), it isn't clear whether the search ever appeared on Mrs H's credit file at all. I haven't seen evidence which shows that Mrs H's credit file was published with the search before the search was removed. But if it was, Premium Credit acted promptly to remove it, which resolved the problem.

Mrs H's mortgage application therefore wasn't affected by the search (at least, I have not been shown evidence that it was). I completely understand why she was very worried that it would be, and why this was distressing. But I can't award compensation for hypothetical damage. (I appreciate that she isn't really asking for compensation for the search affecting her mortgage application, but for the search itself, and for the emotional impact of the search happening at such an inopportune time. But I think that is mitigated the fact that what she feared would happen was avoided because Premium Credit dealt with it quickly.)

Secondly, I think that the evidence in this case, taken all together, is too ambiguous for me to safely conclude that Premium Credit did not have authorisation to carry out the search.

On the one hand, Mrs H has given clear and credible testimony about her use of the website, her reaction when she realised she was unexpectedly applying for a loan, and what steps she immediately took as soon as she realised that the application had been processed. Her actions are entirely consistent with someone who not only didn't want a loan, but had good reason to be alarmed by the prospect of a new search appearing on her credit file and harming her ongoing mortgage application. On its face, her complaint is persuasive and believable.

But on the other hand, her complaint has always faced the difficulty that the application was received by Premium Credit, which is strong evidence that she did complete the online application. I accept that this evidence is not conclusive, because it is an inference, and it is not the only inference which could possibly be drawn. The alternative inference is that there is a very serious glitch in the third party's website, which results in incomplete credit applications being submitted to Premium Credit without the potential applicant ever accepting the terms and conditions and confirming that they wish to proceed with the application. But there is no evidence to show that is what happened, other than Mrs H's insistence that she didn't finish the application procedure. I therefore have to decide which of these alternatives is more likely – that the alleged glitch does exist (without anything to corroborate that), or that Mrs H might be mistaken (even though she is sure she is not).

As I've said already, I have generally found Mrs H's account to be truthful and consistent. Balanced against that, I think that if the glitch did exist then it wouldn't happen only once, and so there would have been many other people in a similar position, and Premium Credit would have had many complaints just like this one. That does not appear to have happened. Also, Premium Credit has provided a screenshot showing an example of an application for credit at an early stage on the third party's website. (I won't show it in this decision because it identifies the third party, and this decision will be published. But I have shared it with Mrs H.) Mrs H doesn't recognise what the screenshot shows, but I have no reason to doubt that it is an authentic representation of the relevant website and of the application process. On the balance of probabilities, I am satisfied that it is what she would have seen at the time and that she has forgotten it. And I'm afraid that it tends to undermine Mrs H's account of the sequence of events.

The screenshot shows the logos of Premium Credit and the third party. It is titled "Finance for Annual Fees." Below that there is a horizontal line with four labels on it, indicating four stages in the application process. The first one is highlighted, because that is the stage which is shown in the screenshot; it is called "Quote." The next three stages are called "Personal details," "Bank details" and "Confirm details." So the quote screen would have appeared before Mrs H had to enter any details about herself or her bank account.

Underneath the horizontal line with the four application stages, the quote screen is displayed. It is titled "Get a quote", and is divided into two boxes. The left hand box asks the customer for the caravan pitch fee and a starting date, and then below that is a paragraph of text which begins: "Premium Credit Limited, an independent finance company, is pleased to offer you a credit facility ... If you wish to apply for credit please complete the form above ..."

The right hand box shows (among other things) the APR, the interest rate, and the total amount payable (which exceeds the figure entered as the pitch fee in the left hand box).

So I think this screen, which is the first stage of the application process, made it clear that this was an application for credit. That contradicts Mrs H's account, which is that this was not made clear until after she had entered all of her details. But entering details comes in the second and third stages.

I am entirely convinced that this is an honest mistake by Mrs H. But that means that she could plausibly have made another honest mistake, without realising it at the time – by accidentally completing the application process. I cannot definitively say that this is certainly what happened. But on the balance of probabilities (which I think is a fair and reasonable way of resolving disputes where the facts are uncertain), I think it is more likely than not.

For all of the above reasons, I think that Premium Credit has already done enough to fairly resolve this complaint, and so I will not require it to do more.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 21 July 2023.

Richard Wood
Ombudsman