DRN-4003089

The complaint

Mr P complains Inclusive Finance Limited, trading as Creditspring, lent to him irresponsibly.

What happened

In January 2021 Mr P entered into a credit agreement with Creditspring. He agreed to pay a fee of £6 a month for 12 months, which entitled him to draw down two advances of £250 each during a 12-month minimum term. These advances would be repayable over four monthly instalments of around £63 (excluding the fee). Mr P drew down the first advance in January 2021 and the second in May 2021.

In December 2021 Mr P entered into a new credit agreement with Creditspring. This time he agreed to pay £10 a month for 12 months, which entitled him to draw down two advances of £500 each during a 12-month minimum term. These advances would be repayable over six monthly instalments of around £83 (excluding the fee). Mr P drew down the first advance in December 2021. Creditspring ended his account in August 2022, so he was unable to draw down the second advance.

Mr P says Creditspring shouldn't have agreed to lend him any money. He says he was constantly needing to borrow to pay other loans off and was trapped in a cycle of debt. He thinks Creditspring should have done further checks with the alarm bells that were shown in his credit file and if it had done this, it would have seen he has a gambling addiction and was spending all his money and more to fund this addiction.

Creditspring says it completed appropriate checks before it approved lending to Mr P and these showed the borrowing was affordable.

I issued a provisional decision about this complaint and explained why I thought the complaint about the first agreement shouldn't be upheld but the complaint about the second agreement should be upheld. I said:

Creditspring needed to take reasonable steps to ensure that it didn't lend to Mr P irresponsibly. It should have completed reasonable and proportionate checks to satisfy itself that Mr P would be able to pay the loan in a sustainable way. Generally, we think it's reasonable for checks to be less thorough – in terms of how much information is gathered and what is done to verify it – in the early stages of a lending relationship.

But we might think more needed to be done if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

Agreement 1 (January 2021)

This was Mr P's first credit agreement with Creditspring. The amount he would be borrowing at any time was relatively low (£250) and it was repayable over a relatively short period of time. So a less detailed affordability assessment, with less verification might be reasonable *and proportionate.*

Creditspring says it evaluated the affordability of the borrowing against both self-reported information and cross-checked details for both income and indebtedness against information from Mr P's credit file. It says Mr P reported his income as £2,350 a month and using open banking, his predicted monthly income was £2,316. Mr P told it his monthly expenses totalled £723. This included £49.50 a month towards existing debt repayments. Based on this, Creditspring concluded Mr P could afford the monthly instalments of around £69 to repay the advances and fee.

Creditspring also did a credit check, and it says it evaluated Mr P's credit report against various flags such as late loan repayments, CCJs and other major events. I've looked at the results of this check and there aren't any significant signs that Mr P was in financial difficulties at the time, or that he wasn't able to manage his existing debts.

The credit report does suggest Mr P's monthly payments towards existing debts are significantly higher than the £49.50 he apparently told Creditspring about – around £240. I would have expected Creditspring to spot that. But even factoring in this higher amount, based on the information available, it would still seem Mr P could afford to sustainably repay the amount he was borrowing from Creditspring.

Overall, there wasn't anything in the checks Creditspring did to suggest Mr P might have difficulties sustainably repaying the advances he was given under the first credit agreement. So I wouldn't have expected it to do any further checks or verification – particularly given the level of borrowing, term of repayment and lack of any previous lending relationship with Mr P.

I'm currently satisfied that Creditspring's checks before agreeing to lend Mr P money under the first agreement were proportionate. And the information it gathered suggested Mr P could afford the month instalments.

Agreement 2 (December 2021)

The checks Creditspring did when Mr P approached it again for further borrowing were similar to the first agreement. It says Mr P told it his income and expenditure information was the same, so his disposable income was the same. It says this meant he could comfortably afford the monthly repayments of around £93 a month (including the fee). Creditspring also did another credit check.

On the face of it, given how much Mr P was borrowing, the term of repayment and his income, these checks might be proportionate. But I don't think Creditspring reacted appropriately to the data available on the credit report when it made its lending decision.

As I've said, Creditspring needed to check Mr P would be able to pay the loan sustainably. Being able to sustainably repay credit is doing so without undue difficulty, while being able to meet other commitments and without having to borrow further. While Mr P had made the repayments towards the first agreement on time and, according to Creditspring had showed no signs of financial hardship, there are signs from his credit report that he hadn't been able to do this sustainably. And, like he says, that he was in a cycle of debt.

In the 11 months since Mr P had entered into the first agreement, his total level of indebtedness had more than doubled. And while some other indicators on his credit report might show he was generally keeping up with his payments towards his debts, this suggests he had needed to keep borrowing more to be able to do this – it wasn't sustainable. There are other signs on the report that also might suggest Mr P was in financial difficulties. For *example, he had used his credit card for cash advances in the last three months.*

At the very least, I think the information on the credit report should have triggered further checks, which are likely to have made Creditspring aware of Mr P's problem gambling. But I think the information Creditspring already had should have been enough for it to realise that Mr P wasn't in a stable financial situation and further credit probably wasn't affordable. This is supported by the fact that very quickly, Mr P struggled to make payments towards the loan. So I currently think it was wrong of Creditspring to agree to advance Mr P any further money in December 2021.

Mr P accepted my provisional decision, but Creditspring didn't. In summary it said:

- Its policies and score cards are automated and it doesn't undertake manual reviews of applications. If a customer fails, the policy or score card they are automatically rejected for a product. Given the term and size of the loan its lending criteria is in line with regulatory requirements and is reasonable and proportionate. As such it would not undertake additional checks or request supporting documents from our customers.

- When it reviews its scorecard it undertakes testing of multiple variables to determine predictive variables/characteristics for credit risk and affordability. It doesn't include cash withdrawals as a predictive variable as it doesn't think it would identify customers more likely to experience affordability issues in the future. And in Mr P's case, he cleared the balance of his credit card once he'd made the cash withdrawals, demonstrating he was managing his finances.

- It can't assume why a customer has had an increase in indebtedness as this could be anything from purchasing a new car to home improvements. And his credit utilisation had reduced between the decision to give him agreement 1 and agreement 2. It can only make a decision on how the customer is managing their commitments and in Mr P's case he was making his repayments to his creditors, he had previously paid on time with Creditspring and he had no arrangements to pay or other signs of insolvency.

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.

As neither party have provided any new evidence or arguments in response to my provisional decision about agreement 1, I see no reason to depart from my provisional findings. So I still don't think the complaint about this agreement should be upheld.

I will focus here on addressing why, despite Creditspring's further comments, I still think the complaint about agreement 2 should be upheld.

It's for Creditspring to decide what checks it does and how it does those checks before agreeing to lend to someone. It has chosen to do automated checks and no additional, more manual checks, which it's entitled to do. But it does need to make sure the checks it does are reasonable and proportionate and that those checks are 'borrower focused'. By 'borrower focused' I mean that Creditspring had to think about whether repaying the credit would cause any difficulties or adverse consequences for Mr P. In other words, it wasn't enough for Creditspring to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Mr P.

As I said in my provisional decision, on the face of it, the checks Creditspring did might be proportionate. But there was information it had as a result of the checks, that it has chosen not to include as a predictive variable/characteristic in its scorecard. I still think this information was enough for to show that Mr P wasn't in a stable financial situation and further credit probably wasn't affordable.

One of the variables I pointed to in my provisional decision that I thought could suggest Mr P might not be in a stable financial situation was the fact he'd used his credit card for cash advances in the three months before applying for the second agreement. To be clear, I'm not saying these ought to have alerted Creditspring to the fact Mr P was gambling. But cash withdrawals on a credit card are generally accepted to be a sign that someone might be in financial difficulties. If Mr P had the level of disposable income Creditspring calculated him to have, it's unlikely he would have needed to advance cash on his credit card and pay the extra interest for this.

Creditspring has made the point that Mr P cleared his credit card balance once he'd made the cash withdrawals. But Mr P couldn't do that without borrowing more money – so he hadn't repaid it in a sustainable way.

That brings me on to the other variable I pointed to in my provisional decision – Mr P's level of indebtedness. I accept Mr P *might* have borrowed money to buy a car or do home improvements. But he hadn't. His increased indebtedness between agreements 1 and 2 had come about because he'd needed to borrow more, to meet his other commitments – such as his credit cards. And while his credit utilisation had reduced, this is because he'd replaced some of his revolving credit with loans.

As I explained in my provisional decision, generally, we think it's reasonable for checks to be less thorough – in terms of how much information is gathered and what is done to verify it – in the early stages of a lending relationship. And if Mr P hadn't the earlier agreement with Creditspring, my conclusions might be different. But Creditspring had information about how Mr P's financial position had changed between the two agreements, and this paints a different picture than the one credit check in isolation.

I accept, there could be innocuous reasons why someone might use their credit card for cash advances, or increase their overall indebtedness over a period of 11 months. But without doing further checks to make sure this is what's happened, I don't think it's reasonable to assume this to be the case.

I think Creditspring had information that showed Mr P would likely have difficulties repaying any further credit. While it chose not to look at that information, include it as part of its scorecard, or ask further questions about it, that doesn't mean it made a fair decision to lend to him.

I still don't think Creditspring should have agreed to advance Mr P any further money in December 2021.

Putting things right

When I find that a business has done something wrong, I'd normally direct that business – as far as it's reasonably practicable – to put the complainant in the position they would be in now if the mistakes it made hadn't happened. In this case, that would mean putting Mr P in the position he would now be in if he hadn't been given a new agreement in December 2021.

However, this isn't straightforward when the complaint is about unaffordable lending. Mr P was given the advance and he used the money. In these circumstances, I can't undo what's already been done. So, it isn't possible to put Mr P back in the position he would be in if he hadn't been given the advance in the first place. Instead, I must consider another way of putting things right fairly and reasonably given the circumstances of this complaint.

Having done so, I think Creditspring should:

a) Refund the monthly £10 charges Mr P paid for the December 2021 credit agreement.

b) Add 8% simple interest* from the date the charges were paid by Mr P to the date the complaint is settled.

c) Remove any adverse information recorded on Mr P's credit file as a result of this agreement.

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

My final decision

For the reasons I've explained here and in my provisional decision, I don't uphold Mr P's complaint about the agreement from January 2021. But I do uphold his complaint about the agreement from December 2021. Inclusive Finance Limited, trading as Creditspring must put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 17 April 2023.
Claire Allison
Ombudsman