DRN-4069555

Financial Ombudsman Service

The complaint

Miss M complains that Metro Bank PLC, trading as RateSetter, lent to her irresponsibly and without carrying out proper affordability checks.

What happened

In April 2022 RateSetter granted Miss M a loan for £4,000 which was scheduled to be repaid at approximately £115 per month over a term of 48 months. It would seem that the loan was intended to be used for home improvements. I can see that Miss M began to experience some difficulties in meeting the repayments from January 2023 and the current status of the loan is not known.

When assessing the application, RateSetter took steps to verify Miss M's income and carried out a credit check before approving the lending.

The investigator thought that RateSetter shouldn't have given Miss M this loan, and provided clear reasons as to why. RateSetter said it didn't accept that view, highlighting that its checks suggested a healthy disposable income from which Miss M could meet the repayments. So the case has been passed to me for review and 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.

Having done so, I'm going to uphold this complaint broadly for the same reasons as those of the investigator.

RateSetter is aware of its obligations under the rules and regulations in place at the time of this lending decision, including the Consumer Credit Sourcebook ("CONC"), so I won't repeat them here. But, briefly, it was required to carry out sufficient checks to ensure that Miss M would be able to repay the borrowing applied for in a sustainable way. As set out in CONC 5.3.1G(2) that means that she could manage the repayments,

> "*…without…incurring financial difficulties or experiencing significant adverse consequences"*

Essentially, she needed to be able to meet her financial commitments and not have to borrow elsewhere to repay RateSetter for the loan to be considered affordable and sustainable.

There are two questions I need to consider when deciding this case, which I will deal with separately below.

Did RateSetter carry out proportionate checks before granting this loan?

RateSetter asked Miss M about her income; compared that income against statistical tools to check its plausibility; and carried out a credit check when considering her loan application. Like the investigator, I'm not satisfied that its checks went far enough.

The investigator highlighted the term of the loan being applied for when explaining why she believed more in-depth checks were needed for the assessment to be proportionate. As Miss M needed to be able to make the repayments for four years, the investigator thought that RateSetter ought to have looked into things in greater depth to understand her financial situation.

In addition to that, there are two other key issues that RateSetter was aware of which ought to have led it to gather further information from Miss M. Firstly, it could see from the results of the credit check it carried out that Miss M had struggled to stay within credit limits and make payments on time on at least eight other accounts. Whilst those incidents were not recent, and so wouldn't have been enough for RateSetter to deny her application outright, they were a clear flag of previous financial struggles that ought not to have been overlooked.

Finally, including the repayment on this loan, RateSetter calculated that Miss M would need to spend about 30% of her total monthly income servicing unsecured borrowing. Again, I wouldn't have expected RateSetter to deny her application outright on this basis. But, in aggregate, RateSetter knew enough to recognise that there was an affordability risk for Miss M, and so it ought to have carried out more in-depth checks as part of its assessment.

What would RateSetter have likely found and what ought it to have concluded, had it carried out proportionate checks?

When considering this second question, our service has had the benefit of several months of bank statements to review. I accept that there was and is no requirement on a lender to obtain any particular type of information: they are permitted to source and rely on a range of evidence when assessing affordability, and so RateSetter could have opted to gather more information about Miss M's financial position in a range of ways. However, it didn't, and, in the absence of anything else provided, I'm happy to rely on the statements to demonstrate what RateSetter would most likely have discovered if it had completed proportionate checks.

The investigator highlighted that Miss M's bank statements showed that she was borrowing more heavily (including from her partner) than was evident from the credit check RateSetter completed, and that she was spending unsustainable amounts on gambling.

I agree. The statements show that, between other high-cost lenders; her overdraft; and funds from family, Miss M was effectively dependent on borrowing. It's also clear that her monthly debt burden was higher than the figure relied upon by RateSetter. So the notional disposable income cited by RateSetter does not stand up to even the slightest scrutiny.

Miss M told us upfront that she had a gambling problem at the time, and that she would repeatedly gamble in an attempt to win a large sum of money to enable her to manage her finances. This too is evident from the statements, including one particular month where she spent almost 50% of her income on gambling.

So if RateSetter had completed proportionate checks in this case, I cannot see how it could have concluded that Miss M would have been able to meet repayments without borrowing elsewhere. That is in direct opposition to the requirements in place for responsible lending at the time. It therefore follows that I uphold this complaint.

Putting things right

I believe that this loan remains current, and there would appear to be some arrears on the account. In order to put things right for her, RateSetter must do the following:

A) RateSetter must remove all interest, fees and charges from the loan, and treat any repayments made by Miss M as though they had been repayments of the principal on the loan.

B) If this results in Miss M having made overpayments then it must refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the payments were made, to the date the complaint is settled.

C) If there is an outstanding balance following the actions set out in “A”, then RateSetter should agree a suitable repayment plan with Miss M.

D) It must remove any adverse information recorded on Miss M’s credit file in relation to this loan, once it has been repaid.

*HM Revenue & Customs requires RateSetter to deduct tax from this interest. It should give Miss M a certificate showing how much tax it’s deducted, if she asks for one.

My final decision

For the reasons I’ve explained, I uphold this complaint and direct Metro Bank PLC to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss M to accept or reject my decision before 6 October 2023.
Siobhan McBride
Ombudsman