

## **The complaint**

Miss W complains that Madison CF UK Limited, trading as 118 118 Money (Madison), lent to her irresponsibly.

## **What happened**

Miss W was approved for one loan for £4,000 on 23 February 2022 for which she had to repay interest of £2,361.56 making the total to pay £6,361.56. Miss W was due to make 36 monthly payments of £176.71 (just under £177) a month. Miss W has managed to repay the amounts up to the records I have seen which stop in April 2023. But the loan account Madison has sent to us shows me that she has had several returned or some of the payments have failed since February 2022. The loan is still within the three-year loan agreement.

After Miss W had complained in October 2022 and asked for a Subject Access Request (SAR), then she received a final response letter (FRL) from Madison in December 2022. It did not uphold her complaint and so Miss W referred it to the Financial Ombudsman Service in January 2023.

One of our adjudicators looked at the complaint. His view was that Madison had known about and had acknowledged the adverse credit history Miss W had when she applied for the loan. But the checks it carried out were proportionate and so he did not think that the complaint was one that ought to be upheld.

Miss W disagreed and the unresolved complaint was passed to me to decide.

On 29 June 2023 I issued a provisional decision giving reasons why I considered that the complaint should be upheld.

Since then both parties have responded promptly and both have agreed with my provisional decision findings.

In the circumstances I have set out here – in this final determination – my decision findings in the same terms and with the same reasoning as the one issued last week.

## **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.

Taking into account the relevant rules, guidance and good industry practice, what I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are whether Madison completed reasonable and proportionate checks to satisfy itself that Miss W would be able to repay in a sustainable way? And, if not, would those checks have shown that Miss W would've been able to do so?

If I determine that Madison did not act fairly and reasonably in its dealings with Miss W and

that she has lost out as a result, I will go on to consider what is fair compensation.

The rules and regulations in place required Madison to carry out a reasonable and proportionate assessment of Miss W's ability to make the repayments under this agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower" focused – so Madison had to think about whether repaying the loan would be sustainable and/or cause significant adverse consequences for Miss W. In practice this meant that Madison had to ensure that making the payments to the loan wouldn't cause Miss W undue difficulty or significant adverse consequences.

In other words, it wasn't enough for Madison to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Miss W. Checks also had to be "proportionate" to the specific circumstances of the loan application. In general, what constitutes a proportionate affordability check will be dependent upon several factors including – but not limited to – the circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications.

I think that a reasonable and proportionate check ought generally to have been more thorough:

- the lower a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the higher the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the greater the number and frequency of loans, and the longer the period during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

I've carefully considered all the arguments, evidence and information provided in this context and what this all means for Miss W's complaint. As I have already explained, I issued a provisional decision last week and both parties have agreed to it. And so what follows here are my final decision findings in the same terms and based on the same reasoning as my earlier provisional decision.

The core of Miss W's objection to Madison's loan approval was that in February 2022 when she applied for the Madison loan, she was a single parent of three children, on benefits with a recently discharged Debt Recovery Order (DRO) and three County Court Judgments (CCJs) in her relatively recent past credit history and so it ought to have known this and not lent to her.

Reviewing the information Miss W gave to Madison at the time she applied for the loan, she gave a different set of circumstances – she was a single, fulltime employed person with no dependents living at home with her parents. Her expenditure was less than her income and so to Madison it looked as if she could afford the loan.

Her credit search had revealed the poor history and revealed that she had very little current debt. So, Madison considered it had done all it ought to have done before lending.

However, my view is that this was a substantial loan for a 36 month term and Madison knew from its own research into Miss W's credit history that she had three CCJs (two of which were unsatisfied) plus she had been discharged from a DRO as recently as June 2020 (it had started in June 2019). The CCJs details were as follows:

- Judgment date of 21 December 2018 for £594 – satisfied 16 September 2021
- Judgment date of 14 January 2019 for £876 – date of dispute registered on credit file 8 February 2022
- Judgment date of 29 May 2019 for £556 – date of dispute registered on credit file on 8 February 2022

Two of the CCJs were marked as being 'in dispute'. For a creditor to get to the stage where it takes the debt issue to court and secures a Judgement shows that Miss W must have been in arrears for a significant time beforehand. Miss W's DRO started in June 2019 and so just after the third CCJ was imposed. I think Madison was aware that Miss W had a poor credit history and had some ongoing issues including outstanding CCJs with disputes registered. And the credit history was not a couple of arrears and maybe a default – these were significant events and clearly her persistent earlier arrears had pushed her into the DRO which I know to be a very particular, and some may describe as a drastic, step for a debtor to take.

So, when Miss W applied to Madison for a significant sum of £4,000 (plus interest) over a 36-month term, I do not consider it a disproportionate response for Madison to have carried out a full financial review in relation to Miss W's situation and I don't think it did that.

I accept that the credit search Madison had done in February 2022 showed that Miss W only had an outstanding debt of £287 and her credit card limit was £1,100 and so she had only got a 'Balance to Limit Ratio' of 26%. And this is one of the reasons I have thought about all aspects of this complaint carefully.

So – at first sight – the credit search results would not have looked too bad from Madison's perspective. But as I have explained above, it seems that this was Miss W's first significant application for credit since the DRO had lifted in June 2020 (apart from a couple of low value credit cards). And the history was such that it could not have been ignored in my view.

Miss W has told us that Madison had approved her for a credit card just before she had applied for this loan. Miss W has not given any details but using the credit search Madison had done then a credit card with a 'Finance House' had been approved for her on 1 September 2021. That maybe it.

### **What would Madison have discovered if it had looked into Miss W's finances?**

For me to be satisfactorily decided that the complaint should be upheld, I need to know what it was that Madison may have seen if it had carried out a full financial review as I have explained I think it ought to have done.

Miss W has sent to us copies of her bank account statements for the time around February 2022. Miss W has sent us her Universal Credit (UC) statement for that time as well. Some of Miss W's UC was deducted (around £67 each month) to repay advanced UC payments already made to her.

Having noticed that there were some unexplained credits into her bank account Miss W has explained them to us as:

- £500 emergency funding from her local Council, twice in January 2022 plus she was getting vouchers for food and for energy use – covered off in the documentation she's sent to explain these emergency fund credits
- UC from the Department of Work and Pensions which credited her account regularly

- 24 January 2022 was £776.75 (and the same in December 2021 and February 2022)
- Child benefit of around £49 each two weeks so about £106 a month
- Credit (£312 on 4 February 2022 and £344.37 on 4 March 2022) from a supermarket which was her part-time employment, and which was accounted for in her UC calculations from the documents I have been sent by Miss W

Using the bank statements Miss W has sent to us, I can see that Miss W paid the usual household bills and paid down her credit cards. She had to pay for items for the children at school. She had some returned direct debits – for example the water bill in early January 2022. Miss W has said to us:

*'The rent was paid directly from my universal credit to ... council as I had been moved in and out of temporary housing accommodation so it doesn't show on my bank statement. I can show this on my universal credit award statement.'*

Miss W explained that she spent money on petrol and insurances to get the children to school.

Miss W has explained that she was paying off a debt to her former partner for a car but I'd not have expected Madison to know about that. So, I discount that as an expense Madison would be expected to have factored in.

### *Income*

In relation to Miss W's income, she had declared to Madison in February 2022 when applying that her income was around £1,386. With the part-time job at the supermarket her average monthly income with the benefits she received was more like £1,203 each month and not the figure of almost £1,400 each month.

So, I consider that a proper investigation would have revealed Miss W got almost £200 a month less than the figure Madison had used for its 'income and expenditure' (I&E) calculations.

Miss W has explained that she had been off work long term sick and she has sent to us a sick note indicating she was signed off from work for a month in May and June 2022. I think this is relevant to the future repayments of this loan but for the purposes of the irresponsible lending complaint then the relevant time was February 2022 and I've no evidence Miss W was on sick-leave then. But I note she has explained that she may have taken time off as annual leave to deal with the symptoms before the sick note was issued in May 2022.

### *Expenditure*

In relation to Miss W's outgoings, she has pointed out that it looks like her application for the loan had no information about her outgoings and each entry was marked as '£0'. Miss W has raised this with us to say it ought to have been a 'flag' to Madison. And I agree. Having looked at all the points and the evidence Miss W has sent us which I consider Madison would have discovered if it had done a realistic and detailed income and expenditure account rather than used the '*reasonable 'average figures'*' then I think Madison would have realised that Miss W was not likely able to repay the £177 each month for three years in a sustainable fashion.

I think that the 'pounds and pence' calculations were not likely to have shown that Miss W could afford £177 a month either. And even if it had, with emergency funding, food and

energy vouchers being given to her, the outstanding CCJs, her DRO history and three dependents as a single mother then I do not consider it would have been sustainable for her.

I uphold the complaint.

### **Putting things right**

The circumstances are that the loan agreement is continuing as it's within the three year agreement period. Madison is to do as follows to put things right:

- refund all interest and charges Miss W paid on the loan to date and apply it to the loan account to reduce the capital to be repaid – this is £4,000;
- arrange for Miss W to have a fresh repayment arrangement if that is what is appropriate in Miss W's circumstances – alternatively for her to continue to pay for the loan in line with the current loan agreement but for the capital sum of £4,000 only;
- ensure that if there is a new repayment schedule it does not appear as an 'Arrangement to Pay' on her credit file which is an adverse entry – but is marked as normal loan repayments;
- remove any negative information about the loan from Miss W's credit file for the period from February 2022 to date – if there are any.

### **My final decision**

My final decision is that I uphold the complaint and I direct that Madison CF UK Limited, trading as 118 118 Money, does as I have outlined in the 'putting things right' section of the decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 1 August 2023.

Rachael Williams  
**Ombudsman**