The complaint

Miss C says Fairscore Ltd, trading as Updraft, irresponsibly lent to her.

What happened

Miss C took out three instalment loans from Updraft. A summary of her borrowing follows:

loan	taken out	value, £	term in months	monthly repayment, £	total repayable, £
1	18/04/2021	4,000	36	158.11	5,662.60
2	12/11/2021	3,000	36	118.58	4,308.50
3	16/07/2022	3,000	36	117.03	4310.21

Miss C says she should have been given three loans concurrently, she was struggling to make her repayments. When she told Updraft this it offered a reduced payment plan bit didn't accept that the loans were ultimately unaffordable. She has missed payments and it has caused her severe stress.

Our investigator upheld Miss C's complaint in part. She said loans 2 and 3 should not have been given as Updraft's checks showed they would not be sustainable for Miss C.

Miss C accepted this assessment but Updraft disagreed. It said it affordability assessments showed Miss C had enough disposable income to afford each loan. Miss C borrowed to repay other debts but as she did not do this she didn't improve her situation.

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.

Our approach to unaffordable/irresponsible lending complaints is set out on our website and I've followed it here.

The rules and regulations when Updraft lent to Miss C required it to carry out a reasonable and proportionate assessment of whether he could afford to repay what he owed in a sustainable manner. This is sometimes referred to as an affordability assessment or an affordability check.

The checks also had to be borrower-focused. So Updraft had to think about whether repaying the credit sustainably would cause any difficulties or adverse consequences for Miss C. In other words, it wasn't enough for Updraft to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Miss C.

Checks also had to be proportionate to the specific circumstances of each loan application.

In general, what makes up a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular 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 and cost of credit they have applied for.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the lower a customer's income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income);
- the higher the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income);
- the longer the period of time a borrower will be indebted for (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I've kept all of this in mind when thinking about whether Updraft did what it needed to before agreeing to lend to Miss C. So to reach my conclusion I have considered the following questions:

- did Updraft complete reasonable and proportionate checks when assessing Miss C's loan applications to satisfy itself that she would be able to repay the loans in a sustainable way?
- if not, what would reasonable and proportionate checks have shown?
- did Updraft make fair lending decisions?
- did Updraft act unfairly or unreasonably in some other way?

I can see Updraft asked for come information from Miss C before lending to her. It asked for her annual income and monthly outgoings. It validated her declared costs against national statistics and used the higher figure. For loan 3 Updraft reviewed Miss C's recent bank statements. It also carried out a credit check to understand her existing credit commitments and her credit history. From these checks combined Updraft concluded Miss C would have monthly disposable income of £876.60, £540.13 and £768.44 respectively at the time of loans 1, 2 and 3 and so they were affordable.

I think these checks were proportionate but I am not persuaded each lending decision was fair. As the parties now agree that loan 1 was not leant irresponsibly I will focus here on loans 2 and 3.

Loan 2

Updraft's checks showed that Miss C's overall indebtedness had increased significantly since she applied for loan 1. As Updraft calculated she was now spending £983.83 a month on her credit commitments. This was a high proportion of her income and a level at which I think Updraft ought to have realised Miss C would most likely struggle to repay a new loan sustainably. And Updraft was obliged to consider this, not just the pounds and pence affordability. It argues Miss C borrowed to repay credit card debt. From the available evidence I can't be sure if this was at the time of loan 2 or 3, but even assuming it was loan 2 that wouldn't have reduced her monthly credit spend as Updraft's credit check showed she was spending £112 a month on credit card debt then. So I still think it ought to have been concerned as such a level of spend on credit is often an indicator of with current or future financial difficulties.

It follows I think Updraft was wrong to give loan 2 to Miss C.

Loan 3

Updraft reviewed Miss C's bank statements as part of its checks for loan. It could see she was persistently reliant on her overdraft facility – and this loan was not taken to clear that debt. So I think it should have realised her finances were under pressure, and that she would in essence have to borrow to repay using her overdraft facility to fund the repayments. So it was not sustainably affordable for her. In addition, this was Miss C's third loan from Updraft in around 15 months so it ought to have seen she was in a cycle of borrowing to repay and was simply juggling her debts.

Updraft also argued that this service had not upheld a very similar complaint when the customer had not used a loan as intended. But I can only consider the merits of this individual case here, and for the reasons set out above I am upholding Miss C's complaint about loans 2 and 3.

I have not seen any evidence Miss C was treated unfairly in any other regard. She was unhappy Updraft offered a reduced payment plan as it would impact her credit file, but we would expect a lender to explore such options if a customer alerts it to being in financial difficulties.

Putting things right

It is right that Miss C should repay the capital she borrowed as she had the benefit of that money. But it is unfair she is charged interest and fees on loans that should not have been given to her.

So Updraft should:

- Refund all the interest and charges on loans 2 and 3. So add up the total Miss C has repaid for each loan and deduct the sum from the capital amount of each loan.

- If reworking Miss C's loan accounts results in her having made overpayments these should be refunded to her along with 8% simple interest, calculated from the date of the overpayments until the date of the settlement. *

- If reworking Miss C's loan accounts results in there being remaining capital outstanding Updraft must work with Miss to agree an affordable repayment plan.

- Remove any adverse information form Miss C's credit file in relation to loans 2 and 3 once any capital balance outstanding is repaid.

*HMRC requires Updraft to deduct any tax from any award of interest. It must give Miss C a certificate showing the deductions if she asks for one. If it intends to apply the refund to reduce an outstanding balance it must do so after the tax deduction.

My final decision

I am upholding Miss C's complaint in part. Fairscore Ltd, trading as Updraft, must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss C to accept or reject my decision before 25 July 2023.

Rebecca Connelley
Ombudsman