DRN-4356101

The complaint

Miss C complains through a representative that Street (UK) C.I.C irresponsibly lent to her.

What happened

From the information provided, Miss C was provided with ten loans, Miss C's borrowing history is as follows:

Loan number	Start date	Loan amount (£)	Weekly repayment (£)	End date
1	21/11/2013	400	12.84	17/06/2014
2	16/06/2014	400	20	01/12/2014
3	01/12/2014	500	12.58	02/09/2015
4	02/09/2015	550	20	27/09/2016
5	28/09/2016	600	14.55	03/07/2017
6	03/07/2017	600	15.35	04/09/2018
7	04/09/2018	700	17.78	10/10/2019
8	10/10/2019	700	20.56	31/03/2021
9	31/03/2021	1,000	28.86	28/06/2022
10	28/06/2022	950	28.73	written off

One of our adjudicators looked at Miss C's complaint and didn't think Street was wrong to lend loans 1 – 3 but thought Miss C had established a concerning pattern of repeatedly borrowing increasing amounts from loans 4 – 10. He thought that pattern was harmful and recommended that Miss C's complaint about loans 4 – 10 should be upheld.

Miss C didn't disagree with the adjudicator, but Street did, it says it didn't irresponsibly lend as it was working in a charitable way in the community. It also says it wrote off Miss C's outstanding balance on loan 10. It asked for an ombudsman to decide the complaint.

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.

We've set out our general approach to complaints about short-term lending - including all the relevant rules, guidance, and good industry practice - on our website.

Street needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Miss C could repay the loans without undue difficulty or the need to borrow further. These checks could consider several different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. In the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Street should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- 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 consumer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

Street was required to establish whether Miss C could sustainably repay her loans – not just whether the loan payments were affordable on a strict pounds and pence calculation. The loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case.

Miss C should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. A lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to do so without borrowing further.

I've carefully considered all the arguments, evidence and information provided in this context and what this all means for Miss C's complaint.

The adjudicator didn't recommend that loans 1 – 3 should be upheld, Miss C hasn't disagreed with this. As there isn't a continuing dispute on the first three loans, I've focused my decision on the loans in still in dispute, loans 4 - 10

Loans 4 – 10

I think due to frequency of the loans in this case, it is important to consider the pattern of lending here.

I've looked at the overall pattern of Street's lending history with a view to seeing if there was a point at which Street should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so, Street should have realised that it shouldn't have provided any further loans.

Given the circumstances of Miss C's case, I think that this point was reached by loan 4. I say this because:

- At this point Street ought to have realised Miss C was not managing to repay her loans without undue difficulty. By loan 4, Miss C had been indebted to Street for around 33 months, that's nearly three years of borrowing without a break. Street ought to have realised it was more likely than not Miss C was having to borrow further to cover the hole repaying her previous loan was leaving in her finances and that Miss C's indebtedness was increasing unsustainably.

- Miss C didn't repay her previous loan before refinancing into the following loan and borrowing more.

- Miss C wasn't making any real inroads to the amount she owed Street. Loan 10 was taken out more than eight years after Miss C's first loan. And it was for a larger amount. Miss C had paid large amounts of interest to, in effect, service a debt to Street over an extended period.

I think that Miss C lost out because Street continued to provide borrowing from loan 4 onwards because:

- These loans had the effect of unfairly prolonging Miss C's indebtedness by allowing her to take credit intended for short-term use over an extended period of time.

- The number of loans and the length of time over which Miss C borrowed was likely to have had negative implications on her ability to access mainstream credit and so kept her in the sub-prime market.

So, I'm upholding the complaint about loans 4 - 10 and Street should put things right.

Putting things right

In deciding what redress Street should fairly pay in this case I've thought about what might have happened had it had stopping lending by loan 4, as I'm satisfied it ought to have.

Clearly there are a great many possible, and all hypothetical, answers to that question. For example, having been declined this lending Miss C may have simply left matters there, not attempting to obtain the funds from elsewhere. If this wasn't a viable option, she may have looked to borrow the funds from a friend or relative – assuming that was even possible. Or, she may have decided to approach a third-party lender with the same application, or indeed a different application (i.e., for more or less borrowing). But even if she had done that, the information that would have been available to such a lender and how she would (or ought to have) treated an application which may or may not have been the same is impossible to reconstruct now accurately.

From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Miss C in a compliant way at this time. Having thought about all these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Miss C would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Street's liability in this case for what I'm satisfied it has done wrong and should put right.

A. Street should add together the total of the repayments made by Miss C towards interest, fees and charges on these loans, including payments made to a third party where applicable, but not including anything it has already refunded.

B. Street should calculate 8% simple interest* on the individual payments made by Miss C which were considered as part of "A", calculated from the date Miss C originally made the payments, to the date the complaint is settled. Street may choose to use the total of "A" plus "B" to repay any capital it has written off.

C. Street should pay any remaining refund to Miss C. If there is no refund left and still a balance outstanding made up of written-off principal, it would not be fair for you to pursue this further.

D. The overall pattern of Miss C's borrowing for loans 4 - 10 means any information recorded about them is adverse, so Street should remove these loans entirely from

Miss C’s credit file.

*HM Revenue & Customs requires Street to deduct tax from this interest. Street should give Miss C a certificate showing how much tax it has deducted, if she asks for one.

My final decision

For the reasons given above, I uphold Miss C’s complaint in part and direct Street (UK) C.I.C to 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 4 December 2023.

Oyetola Oduola
Ombudsman