

## **The complaint**

Miss S says Hastings Insurance Services Limited, trading as Hastings Direct, irresponsibly lent to her.

## **What happened**

Miss S took out a 12-month loan for £1,000 in April 2023. The monthly repayments were £89.24.

Miss S says her personal situation was not checked properly. She was gambling at the time. The outstanding balance on this loan is affecting her mental health. She cannot afford to repay it and has other priority bills she is also falling behind on. She asks for the debt to be written-off and all interest paid to be refunded.

Hastings Direct says it checked a number of things before lending to Miss S. These included her creditworthiness, the affordability of the loan based on her income and fixed outgoings, fraud checks, identity verification and product eligibility. The results of these checks showed the loan was affordable for Miss S.

Our investigator upheld Miss S's complaint. He said the checks were proportionate but did not show the loan was affordable for Miss S.

Hastings Direct disagreed and asked for an ombudsman's review. It said where we used 5% of balance to estimate Miss S's credit card repayments it used 3% and this is based on reviewing the minimum payment percentage of leading providers and advice from industry experts. It does not know of anyone charging 5%. It stress tested other inputs into the affordability calculation such as mortgage costs. Also Miss S did not get in touch to say she was having repayment problems.

## **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 approach to complaints about irresponsible and unaffordable lending on our website and I've followed it here. Before agreeing to lend, Hastings Direct needed to complete reasonable and proportionate checks to ensure that Miss S could afford to repay what was being lent. There's no set list of checks that a lender has to complete, but the checks need to take into account factors such as the amount of the loan, the amount of the repayments and the borrower's financial circumstances.

I've thought about whether Hastings Direct carried out reasonable and proportionate checks for this loan. I've then looked at the information Hastings Direct obtained from Miss S when she applied for the loan and the information it obtained from the checks it carried out to assess whether it made a fair lending decision.

Hastings Direct asked Miss S for her income and checked this using an external income

verification tool. It carried out a credit check to understand her credit history and existing commitments. It estimated her living expenses using national statistics. From these checks Hastings Direct concluded Miss S would have £127.03 of disposable income after taking on this loan. I assume it would increase this by £1.99 as it recently confirmed the monthly loan repayment was lower than it initially told us, but that is not material to the outcome of this complaint.

I think these checks were proportionate given the value and term of the loan, and the value of the monthly repayment relative to Miss S's income. But I don't think Hastings Direct made a fair lending decision based on the information it gathered. I'll explain why.

Miss S's net monthly income was £1,721.87, her mortgage was £320, her estimated living costs were £731.57 and her existing loan repayments were £228. What is in dispute in this case is how much the lender needed to allocate for Miss S's credit card repayments. This service allocates 5% of outstanding balance (here this was £7,468) to allow for repayment of interest and capital and to ensure there is no risk of a consumer falling into persistent debt. Arguably, this can still lead to underestimating what a consumer needs to pay ongoing if their credit utilisation is low. Here it was 56% so Miss S could easily have needed to pay more than £373 a month to sustainably repay her credit card accounts. This means I do not find the loan was affordable as Miss S only had £69.30 of disposable income after taking into account her existing commitments and living costs - so not enough to cover the repayments for this loan.

It follows I find Hastings Direct was wrong to lend to Miss S.

### **Putting things right**

I think it's fair that Miss S should only have to repay the money she borrowed and had the use of. So, I think Hastings Direct should refund all of the interest and charges she has paid on the loans. Miss S asked that the balance be written-off but I have found no grounds to instruct Hastings Direct to do that at this stage. I would remind it to treat Miss S fairly and with the appropriate forbearance going forwards.

Hastings Direct must:

Add up the total amount of money Miss S received as a result of having been given the loan. The repayments Miss S made should be deducted from this amount.

a) If this results in Miss S having paid more than she received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement)\*. Hastings Direct should also remove all adverse information regarding this loan from Miss S's credit file.

b) If any capital balance remains outstanding, then Hastings Direct should attempt to arrange an affordable and suitable payment plan with Miss S. Once Miss S has cleared the balance, any adverse information in relation to this loan should be removed from her credit file.

\*HM Revenue & Customs requires Hastings Direct to take off tax from this interest. Hastings Direct must give Miss S a certificate showing how much tax it's taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance it must do so after deducting the tax.

### **My final decision**

I am upholding Miss S's complaint. Hastings Insurance Services Limited, trading as Hastings

Direct, must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 19 February 2024.

Rebecca Connelley  
**Ombudsman**