

## **The complaint**

Mrs C complains that Creation Consumer Finance Ltd lent irresponsibly when it approved a loan in her name.

## **What happened**

Mrs C applied for a loan of £7,500 with Creation in September 2019. Creation says that in the application Mrs C advised she was employed with an income of £30,000 a year. Creation says it calculated Mrs C would receive around £2,500 net each month. Creation carried out a credit search and says it found monthly unsecured credit commitments totalling around £780. Creation says it didn't find any secured lending, like mortgages, in Mrs C's name and used a rent/mortgage figure of £600 for assessment purposes. Creation says it used the net monthly income of £2500 and commitments totalling £1,655.09 (including the new loan payment) leaving Mrs C with £844.91 each month as disposable income. The loan was approved.

Mrs C has explained the loan formed part of a pattern of borrowing that caused financial difficulties. Mrs C's told us she's since received debt advice from a third party organisation.

Earlier this year, Mrs C complained that Creation had lent irresponsibly when it approved her loan in 2019. Creation didn't agree and said it had applied its normal lending checks before deciding whether to proceed. Mrs C referred her complaint to this service and it was passed to an investigator. Mrs C supplied copies of bank statements for the months preceding her loan application in 2019 and a full copy of her credit file.

The investigator upheld Mrs C's complaint as they felt Creation had failed to carry out reasonable and proportionate checks. The investigator thought that if Creation had looked more closely at Mrs C's circumstances it would've most likely declined her loan application.

Creation responded and asked for supporting information by way of the bank statements Mrs C had sent us. Creation's case handler explained they wanted to refer the information to its Risk team to review. The information was forwarded to Creation on 7 September 2023. On 27 September 2023 Creation asked for more time. That was the last time the investigator heard from Creation and it didn't respond further to their emails. On 25 October 2023 the investigator contacted both parties to say Mrs C's complaint was being referred to an ombudsman as no response had been received. As a result, Mrs C's complaint has been passed to me to make a 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.

We've set out our approach to complaints about irresponsible and unaffordable lending on our website. I've had this approach in mind when considering Mrs C's complaint.

Before agreeing to lend, Creation needed to complete reasonable and proportionate checks to ensure that Mrs C could afford to repay what was being lent. These checks needed to be borrower focussed and could take into account things such as the amount of credit, the total sum repayable and the consumers financial circumstances. There's no set list of checks a lender has to do. But lenders are required to have regard to the factors I've mentioned above when deciding what's reasonable and proportionate.

I've reviewed the information Creation provided in its file submission concerning Mrs C's application, including the figures it used to check whether her loan was affordable. I think it's fair to note that Creation's told us Mrs C gave an income figure of £30,000 a year and that it used a net monthly income of £2,500. But that would be the gross income Mrs C received before tax and deductions, not the net figure. So as a starting point, it appears Creation used a higher "take home" income figure than Mrs C would've received if her income had been £30,000 which brings its affordability assessment into question.

I also think it's fair to note Mrs C had a substantial amount of unsecured debt when she applied. Mrs C's credit file shows she had around £32,350 in unsecured debt at the point of her application costing around £915 a month to service. The total borrowing figure is more than Mrs C's declared income which I think should've put Creation on notice she may've been borrowing to support other credit and make ends meet. In addition, Mrs C's credit file shows her mortgage was around £220,000 with repayments of £1,446 a month. Taken together, Mrs C would've needed to be able to support monthly commitments of £2,361 plus the new Creation payment of £160.79. Given the level of outgoings Mrs C had to service credit, I think Creation should've done more to check she could afford to make repayments sustainably for the full term of its loan. There was a range of options available to Creation, like obtaining evidence of Mrs C's income or asking for bank statements.

Mrs C has given us bank statements from the period before her loan was approved. Whilst I can't see evidence of all Mrs C's outgoings, her earning income was paid into the account we have statements for. They show Mrs C's income varied considerably. In May 2019 Mrs C received £190.59 from her employer and in June 2019 she received £621.88. It was only in July 2019 that Mrs C received income broadly in line with the figure given in the application form when she received £2,349.38. In my view, if Creation had carried out more comprehensive checks it would've found Mrs C's income was variable each month and not sufficient to support further borrowing. As a result, I think Creation would most likely have declined Mrs C's loan if it had carried out more comprehensive checks during the application. I'm satisfied Creation lent irresponsibly when it approved Mrs C's loan application.

Creation hasn't provided a specific response to the investigator's findings. But I'm satisfied the investigator provided a reasonable amount of time and sent a number of requests for comment before referring the complaint for a decision. Our remit requires us to move cases forward without undue delay. I'm satisfied Creation has been given fair opportunity to respond and that I have sufficient information already on file to reach a fair decision. So, for the reasons I've given above, I'm going to proceed and uphold Mrs C's complaint.

### **My final decision**

My decision is that I uphold Mrs C's complaint and direct Creation Consumer Finance Ltd to settle as follows:

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

- a) If this results in Mrs C 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). † Creation should also remove all adverse information regarding the loan from Mrs C's credit file
- b) If any capital balance remains outstanding, then Creation should attempt to arrange an affordable and suitable payment plan with Mrs C. Once she has cleared the balance, any adverse information in relation to the loan should be removed from her credit file

† HM Revenue & Customs requires Creation to take off tax from this interest. Creation must give Mrs C a certificate showing how much tax it's taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 19 December 2023.

Marco Manente  
**Ombudsman**