DRN-4460468

The complaint

Mrs J is complaining that Progressive Money Limited (PML) lent to her irresponsibly by providing her with a personal loan.

What happened

In April 2018, Mrs J applied for a loan with PML to consolidate her debts. They lent her £5,000 over a three-month term. The loan required Mrs J to make 36 monthly repayments of around £290. Mrs J fell into arrears in April 2019 and stopped making payments a few months later. PML passed the debt to a debt collection business in April 2021.

Mrs J complained to PML in May 2023 saying they shouldn't have given her the loan as it was unaffordable.

PML responded, saying they'd carried out appropriate checks before lending to Mrs J. They said they'd reviewed Mrs J's credit file in detail and discussed her payday loans and defaults with her. They used her bank statements to confirm her income and expenditure and said they calculated that she'd be able to make the repayments necessary against this loan. So they felt the loan was affordable and didn't uphold her complaint.

Mrs J wasn't happy with PML's response so she brought her complaint to our service, saying she was already struggling to pay back her existing debts when she took out the PML loan.

One of our investigators looked into Mrs J's complaint and upheld it. In summary, their view was that PML had done proportionate checks before lending to Mrs J but hadn't made a fair lending decision – they said the extent of Mrs J's use of her overdraft made it clear she was in financial difficulties.

PML weren't happy. They said they'd done thorough checks including a conversation with Mrs J. They said they'd consolidated all active lines of credit apart from one credit card and one loan. They'd calculated she'd have disposable income of £400 each month, and would be able to use this together with the loan excess of around £1,000, to reduce her overdraft balance. They reiterated that Mrs J's aim had been to reduce the number of debt payments she needed to make each month and improve her credit file. PML asked for an ombudsman's decision – and the matter came to me.

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.

Having done so, I'm upholding Mrs J's complaint for broadly the same reasons as our investigator. I'll explain more below.

What's required of lenders?

The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether or not to lend to a consumer, or when increasing the amount they lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation.

CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case.

Did PML carry out proportionate checks?

PML's loan required Mrs J to pay back over £10,000, over a three-year period. So my starting point is that I'd expect their checks to have been thorough.

PML looked at Mrs J's credit file and her bank statements and discussed what they found with her on the phone. They completed an income and expenditure assessment and determined that Mrs J would have sufficient disposable income to repay their loan in a sustainable way.

I'm satisfied these checks were proportionate – PML checked Mrs J's income and went through her expenditure in detail, verifying significant elements of it. I can't say PML should have done more.

Did PML make a fair lending decision?

Having decided that PML carried out proportionate checks, I have to consider whether their decision to lend to Mrs J was fair.

Mrs J's credit file and her bank statements showed that she was using payday loans and similar high-cost facilities. They also showed that her overdraft usage fluctuated between around £5,000 and £8,000 overdrawn, against a limit of £5,000. Mrs J had defaulted on two accounts – one in January 2015 which she had since settled, and one in December 2017, which she was continuing to pay off. She told PML that this second default had arisen due to some confusion over payment amounts and dates.

PML asked why Mrs J had needed to use high-cost credit and she told them she'd recently got married and the wedding and honeymoon had been more expensive than she'd expected. It seems this had led Mrs J into financial difficulties and she'd found herself in a debt cycle with short-term lenders. PML have argued this wasn't the case, but I'm not persuaded by their argument – it's clear Mrs J was repeatedly taking out new debts to repay existing debts.

As well as thinking about Mrs J's overall financial position – that of being in financial difficulties and likely in a debt cycle, I've considered her income and expenditure, and the affordability of the loan.

Mrs J had income from two sources – employment and child benefit. PML calculated a total monthly income of around £2,600. Looking at Mrs J's bank statements, I'm satisfied this was a fair estimate.

Turning to Mrs J's expenditure, PML analysed Mrs J's bank statements to estimate her expenditure and discussed specific items with her. They appear to have arrived at a couple of different estimates of disposable income. Looking at the data they used, I'd estimate her monthly living expenses were around £1,700 (including her mortgage). Although Mrs J's mortgage was listed as joint, it appears that she was making the full repayment each month and not receiving any contributions towards it, so I've left the full amount in my estimate.

PML's loan was used to settle four of Mrs J's existing debts, as well as reducing her overdraft by around £1,000. So she had monthly payments of £290 to PML, and £178 on the remaining loan, a total of £468.

But Mrs J also had revolving credit facilities – the overdraft, reduced to an average of around £6,000, a credit card with a balance of £575, and the defaulted balance of around £9,300. When making a lending decision, a firm needs to consider the ability of their customer to repay their debts within a reasonable timeframe rather than just making minimum repayments. Assuming Mrs J would need to pay 5% of the starting balance each month to repay these creditors within a reasonable time frame, this would mean additional outgoings of around £790 per month. Taking everything together, this suggests Mrs J would have negative disposable income of around £360 after taking out the loan.

Although PML calculated Mrs J had positive disposable income of around £400 per month, they appear to have included only half of her monthly mortgage payments, 1% of her defaulted balance, and nothing in respect of her overdraft (although they did note that the disposable income could be used to reduce the overdraft balance). As I've explained above, I'm not satisfied these elements of their income and expenditure assessment were appropriate and it means that overall, I don't think PML made a fair lending decision.

Putting things right

As PML shouldn't have approved the loan, I don't think it's fair that Mrs J pay any interest or charges for the borrowing. She did have use of the funds she was lent, so it's fair she repays them. PML should therefore calculate what Mrs J has paid towards the loan (including amounts paid to a third party) and anything she's paid above the amount lent should be refunded. If she hasn't repaid the amount lent, PML should arrange a sustainable payment plan for the shortfall to be repaid. I'm aware the debt has been passed to a third party, so PML will need to liaise with that party.

To settle Mrs J's complaint, PML should:

- Refund any payments Mrs J has made in excess of the amount originally lent.
- Add 8% simple interest per year from the date of each overpayment, if there were any, to the date of settlement.
- If Mrs J has paid less than the amount originally lent, arrange a sustainable payment plan for any shortfall.
- Once Mrs J has repaid the amount originally lent in full, remove any adverse information recorded on her credit file regarding the agreement.

If PML consider tax should be deducted from the interest element of my award they should provide Mrs J a certificate showing how much they've taken off so that she can reclaim that amount, assuming she is eligible to do so.

My final decision

As I’ve explained above, I’m upholding Mrs J’s complaint. Progressive Money Limited need to take the steps outlined above to settle the matter.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs J to accept or reject my decision before 3 April 2024.

Clare King
Ombudsman