DRN-4460804

The complaint

Mrs H says Chetwood Financial Limited, trading as BetterBorrow, irresponsibly lent to her.

What happened

Mrs H took out a 36-month instalment loan for £6,000 in July 2022. The monthly repayments were £235.34 and the total repayable was £8,471.99. She is now repaying the debt through a debt management plan (DMP).

Mrs H says she applied for this loan as she was in dire straits with lots of credit card debt, a large overdraft and she was defaulting on payments. BetterBorrow says it carried out appropriate checks and was confident the loan was suitable for Mrs H.

Our investigator upheld Mrs H's complaint. He said BetterBorrow's checks were not proportionate and better checks would have showed the loan would most likely not be affordable for Mrs H.

BetterBorrow disagreed and asked for an ombudsman's review. It said its checks were proportionate and Mrs H's application was within its strategy limits.

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 unaffordable/irresponsible lending - including all the relevant rules, guidance, and good industry practice - on our website.

Considering the relevant rules, guidance, and good industry practice, I think the questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did BetterBorrow complete reasonable and proportionate checks to satisfy itself that Mrs H would be able to repay the loan in a sustainable way?
- If not, would those checks have shown that Mrs H would have been able to do so?
- If so, did BetterBorrow make a fair lending decision?

The rules and regulations in place required BetterBorrow to carry out a reasonable and proportionate assessment of Mrs H's ability to make the repayments under the agreement. This assessment is sometimes referred to as an affordability assessment or affordability check.

The checks had to be borrower-focused – so BetterBorrow had to think about whether repaying the loan would be sustainable. In practice this meant that BetterBorrow had to ensure that making the repayments on the loan wouldn't cause Mrs H undue difficulty or significant adverse consequences. That means she should have been able to meet repayments out of normal income without having to borrow to meet the repayments, without failing to make any other payment she had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on her financial situation.

In other words, it wasn't enough for BetterBorrow to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Mrs H.

Checks also had to be proportionate to the specific circumstances of the loan application. In general, what constitutes 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/cost of credit they are seeking. I think that such checks ought generally to have been more thorough:

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

I have reviewed the checks that BetterBorrow carried out prior to lending to Mrs H. It asked about her income and employment status. It checked her declared income using an external verification tool. It asked about her residential status and housing cost. It used national statistics to estimate Mrs H's living costs. It carried out a credit check to understand her credit history and existing commitments. It did not ask about the purpose of the loan. From these checks combined BetterBorrow concluded Mrs H could afford the loan.

Whilst these checks may have initially been adequate I don't think they went far enough based on the results they returned. I'll explain why.

Amongst other things, BetterBorrow learnt from its credit check that Mrs H was £2,302 overdrawn. Whilst this may not have been a reason to decline the application, it was a reason to carry out further checks. To meet its obligations BetterBorrow needed to understand Mrs H's financial position in more detail and understand if this was a temporary position, or an ongoing reliance on the facility.

In situations like this we look at bank statements for the three months prior to the application. I am not saying BetterBorrow had to do exactly this but it is a reliable way for me to understand what better checks would most likely have shown.

They show that Mrs H was persistently reliant on her overdraft facility and was not using the product as a short-term borrowing solution as it is intended. Her statements show that she would most likely have to borrow to repay (via her overdraft facility) if she took on this loan. The purpose of the loan was not known to be debt consolidation. So there was a high risk this loan would cause financial harm for Mrs H.

It follows I find BetterBorrow was wrong to lend to Mrs H. I haven't seen any evidence it acted unfairly towards her in some other way.

Putting things right

Mrs H should repay only the capital portion of the loan. But she has paid interest and charges on a loan that should not have been given to her and this is unfair.

So BetterBorrow should:

- Remove all interest, fees and charges applied to the loan.
- Treat any payments made by Mrs H as payments towards the capital amount.
- If Mrs H has paid more than the capital, refund any overpayments to her with 8% simple interest* from the date they were paid to the date of settlement.
- But if there's still an outstanding balance, BetterBorrow should agree an affordable repayment plan with Mrs H and the administrator of her DMP, treating her fairly and with forbearance as appropriate.
- Remove any adverse information about the loan from Mrs H's credit file once any outstanding capital balance has been repaid.

*HM Revenue & Customs requires BetterBorrow to deduct tax from this interest. It should give Mrs H a certificate showing how much tax it's deducted 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 Mrs H's complaint. Chetwood Financial Limited, trading as BetterBorrow, must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 12 March 2024.

Rebecca Connelley
Ombudsman