

The complaint

Miss A says Brent Shrine Credit Union Limited, trading as My Community Bank, irresponsibly lent to her.

What happened

Miss A took out a loan for £10,000 over 60 months on 4 November 2022. The monthly repayments were £290.40 and the total repayable was £17,841.67.

Miss A says the loan was unaffordable for her - and looking at her income and expenses at the time that was clear. She was only working part time whilst studying and has had to go without essentials to make the repayments.

Brent Shrine CU says it carried out appropriate checks before lending.

Our investigator upheld Miss A's complaint. He said Brent Shrine CU's checks were not proportionate and better checks would have shown Miss A did not have the income to support this borrowing and was reliant on her overdraft and high-cost loans.

Brent Shrine CU disagreed and asked for an ombudsman's review. It said it did not need to carry out more checks given the value of the loan and the results of its credit check. Its approach was in line with industry standards and the regulator's guidelines. If Miss A misrepresented her employment status at application and her sole income was from a student loan that cannot be seen as its responsibility.

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.

Our approach to unaffordable/irresponsible lending complaints is set out on our website and I've followed it here.

The rules and regulations when Brent Shrine CU arranged the loan for Miss A required it to carry out a reasonable and proportionate assessment of whether she could afford to repay what she owed in a sustainable manner. This is sometimes referred to as an affordability assessment or an affordability check.

The checks also had to be borrower-focused. So Brent Shrine CU had to think about whether repaying the credit sustainably would cause any difficulties or adverse consequences for Miss A. In other words, it wasn't enough for Brent Shrine CU to simply think about the likelihood of it getting its money back, it had to consider the impact of the repayments on Miss A.

Checks also had to be proportionate to the specific circumstances of each loan application. In general, what makes up 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 and cost of credit they have applied for. In light of this, I think that a reasonable and proportionate check ought generally to have been more thorough:

- the lower a customer's income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income);
- the higher the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income);
- the longer the period of time a borrower will be indebted for (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I've kept all of this in mind when thinking about whether Brent Shrine CU did what it needed to before agreeing to lend to Miss A. So to reach my conclusion I have considered the following questions:

- did Brent Shrine CU complete reasonable and proportionate checks when assessing Miss A's loan application to satisfy itself that she would be able to repay the loan in a sustainable way?
- if not, what would reasonable and proportionate checks have shown?
- did Brent Shrine CU make a fair lending decision?
- did Brent Shrine CU act unfairly or unreasonably in some other way?

I can see Brent Shrine CU asked for some information from Miss A before it approved the loan. It asked for details of her income and checked this with a third party. It also checked her credit file to understand her credit history and existing credit commitments. It estimated her rent and living costs using national statistics. From these checks combined Brent Shrine CU concluded Miss A would be able to sustainably afford to repay the loan.

I don't think these checks were proportionate in the circumstances of this case. This was not Miss A's first loan from Brent Shrine CU. Miss A was agreeing to repay a relatively large loan over a five-year period, so I think Brent Shrine CU needed a fuller understanding of her financial circumstances before concluding the loan was sustainably affordable. I say this as it learnt from its initial checks that Miss A was paying £710 a month on credit which was a high proportion of her declared income. And whilst this would change as the purpose of this loan was debt consolidation, before extending further credit to Miss A I think the lender needed a better understanding of her financial position to allow it to conclude with certainty that this loan would not be financially harmful for Miss A.

I have looked at Miss A's bank statements from the three months prior to his application. I am not saying Brent Shrine CU had to do this but it's a reliable way for me to understand what better checks would most likely have shown. They show that Miss A's income was significantly lower than she had declared at application. She was working part-time in the role she'd declared but this generated an average monthly net income of £1,073. The other 'income' that Brent Shrine CU's verification (done most likely by current account turnover) would have picked up was in fact loan proceeds from a number of high-cost lenders, in addition to her student loan. So had the lender carried out better checks it would have realised that Miss A did not have the means to sustainably repay this loan – and that she was already in a cycle of borrowing, seemingly reliant on credit to survive. I have seen no evidence to suggest that giving this loan was not just prolonging this reliance.

It follows I think Brent Shrine CU was wrong to lend to Miss A. It has raised that if she made false declarations at application that cannot be its responsibility, but that does not change my conclusion about the affordability of the lending. The lender was obliged to carry out proportionate checks and I haven't found it did so here. Had it done so I think it, as a responsible lender, would most likely have made a different lending decision.

I haven't found any evidence Brent Shrine CU acted unfairly or unreasonably in some other way towards Miss A.

Putting things rights

It's reasonable for Miss A to have repaid the capital amount that she borrowed as she had the benefit of that money. But she has paid interest and charges on a loan that shouldn't have been given to her.

So Brent Shrine CU must:

- Remove all interest, fees and charges on the loan and treat all the payments Miss A made as payments towards the capital.
- If reworking Miss A's loan account results in her having effectively made payments above the original capital borrowed, then the lender should refund this money to Miss A - 8% simple interest should be applied to the overpayments, from the date the overpayments would have arisen, to the date of settlement*.
- If reworking Miss A's loan account results in there being an outstanding capital balance the lender must try to agree an affordable repayment plan with Miss A, treating her fairly and with forbearance as appropriate.
- Remove any adverse information recorded on Miss A's credit file in relation to the loan once any capital balance is repaid.

*HM Revenue & Customs requires Brent Shrine CU to deduct tax from this interest. Brent Shrine CU should give Miss A 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 Miss A's complaint. Brent Shrine Credit Union Limited, trading as My Community Bank, must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 14 March 2024.

Rebecca Connelley
Ombudsman