

## **The complaint**

Mr C has complained that Creation Consumer Finance Ltd (“Creation”) acted irresponsibly when it provided him with a £2,500 loan in April 2021.

## **Background**

Mr C applied for a £2,500 loan over 30 months with Creation in April 2021. He has said that at the time he already had two large loans with other credit providers, was over drawn on three separate bank accounts and had a number of active credit cards all sitting close to their upper limits. He has said if Creation had run proper and sufficient credit checks at the time of his application it would have realised that he was becoming increasingly dependent on credit and would have refused to provide him with the loan.

Creation has said that at the time of application Mr C was living at home with his parents so had minimal monthly expenses. It accepts that he had some existing forms of credit at the time but says it completed credit checks against its own lending criteria and reviewed the information available on Mr C’s credit file. Having done so it was satisfied that Mr C had access to over £400 monthly disposable income and so was satisfied the loan was affordable for him.

Unhappy with Creation’s response to his complaint Mr C asked us to look into it for him. One of our investigators reviewed the information provided by both Mr C and Creation. He said there was sufficient evidence available to Creation in April 2021 to show Mr C may struggle to meet his monthly repayments. As such he thought that it should have done more thorough checks at the time of application in order to ensure the loan was affordable and sustainable. If this had happened he thought Creation would have realised that Mr C was in an unsustainable situation, clearly dependent on credit and gambling in a compulsive and harmful way. So, he upheld the complaint and said it should refund any interest and charges added to the loan and remove any negative markers associated with it from Mr C’s credit file.

Mr C accepted the investigator’s findings, but Creation didn’t. It didn’t clarify exactly what it disagreed with but rather repeated the statement that it believed the checks it completed were sufficient. Because Creation didn’t accept the findings of the investigator the complaint has been passed to me to consider

## **My Findings**

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 agree with the findings of our investigator and am upholding Mr C’s complaint. For the sake of clarity, I’ll set out my rationale below.

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance and good industry practice – is set out on our website.

The rules don’t set out any specific checks which must be completed to assess

creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments, the total cost of the credit and what it knew about the consumer at the time of application.

Mr C has explained that at the time he applied for the loan he was earning approximately £13,200 a year, which meant he had an average monthly take home pay of around £1,100. At the time he applied for the loan with Creation Mr C had two outstanding loans with two different high street banks, one of which he had taken out in early February 2021, some two months prior to applying for the loan with Creation.

In addition to those loans Mr C also had three active bank accounts, all of which were showing overdrawn balances in the months prior to the lending application. In fact, one of these accounts was showing the loan repayments and credit card repayments, all of which were being met via the overdraft facility rather than through Mr C's own funds. So, he was already relying on existing forms of credit to meet the credit obligations he had elsewhere. This clearly contradicts Creation's assertions that Mr C had any disposable income available to him at all.

Mr C also had numerous credit cards which were all sitting near their limits and which he was only making minimum repayments against.

While I accept that Mr C's credit file showed no missed payments or active arrears when he applied for the loan with Creation, that in and of itself, can't be relied on to show that the additional lending was appropriate. Looking at how Mr C was using the credit already available to him, and the regularity at which he was applying for access to additional credit, he had applied for a new credit card only eight months before applying for this loan and therefore only six months before applying for the loan he had taken in February 2021, there was sufficient cause for Creation to run more thorough checks to understand whether or not the loan was genuinely affordable and if Mr C was likely to be able to sustain payments over the loan term.

If it had done that I think it would have quickly realised Mr C was in a spiral of debt and relying on credit to repay credit. In addition, it would have seen that he was gambling in a compulsive and harmful way and that the funds of the loan were likely to be used for that purpose, thus serving to increase Mr C's overall indebtedness and make a difficult situation worse.

Therefore, it follows that I think the lending decision was inappropriate and Creation shouldn't have provided Mr C with the loan in April 2021. For that reason, I'm upholding his complaint.

### **Putting things right**

In order to put things right Creation Consumer Finance Ltd should:

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

a) If this results in Mr C having paid more than they received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). †

b) If any capital balance remains outstanding, then Creation should attempt to arrange an affordable and suitable payment plan with Mr C.

- To remove any negative information recorded on Mr C's credit file relating to this loan.

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

### **My final decision**

For the reasons set out above I uphold Mr C's complaint against Creation Consumer Finance Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 21 May 2024.

Karen Hanlon  
**Ombudsman**