

The complaint

Mrs M complains that Madison CF UK Limited trading as 118 118 Money ("118 118") irresponsibly agreed a loan for her.

What happened

118 118 agreed a loan of £4,000 for Mrs M in August 2022. The total amount owed was £7,665.12 to be repaid at £212.92 a month over 36 months. Mrs M met her repayments until May 2023, when her direct debit was returned.

Mrs M complained to 118 118 that the loan was unaffordable and it had been irresponsibly agreed. She said she had several loans, credit cards and catalogue debts when 118 118 agreed this loan for her and that she didn't have enough money to meet all her debt repayments and her living costs.

118 118 didn't uphold Mrs M's complaint. It said that the lending and its checks met the relevant regulatory obligations and requirements in place at the time of the application, in addition to its internal lending policies. Nevertheless, 118 118 offered Mrs M a goodwill payment of £1,832.56 in full and final settlement of her complaint and said it would remove any adverse information about her loan from her credit file.

Mrs M didn't accept this offer and referred her complaint to us. Our investigator looked into the complaint and didn't recommend that it be upheld. They concluded that 118 118 should have looked into Mrs M's circumstances further before lending to her but would have continued with its loan offer because the checks wouldn't have revealed any concerns. Mrs M didn't agree with this recommendation and asked for the complaint to come to an ombudsman to review and resolve.

I issued a provisional decision on 12 January 2024 explaining why I thought Mrs M's complaint should succeed. I allowed some time for both parties to comment on what I'd said or provide any new information they wished me to consider when making my final decision. Mrs M agreed with my provisional decision and 118 118 said it had no further comment or information to provide.

My decision deals solely with Mrs M's complaint about her loan. Mrs M also referred a complaint to us about a credit card she took out with 118 118 in April 2022, several months before the loan. The offer that 118 118 made was to resolve her complaints about her loan and her credit card. We've looked at Mrs M's complaint about her credit card with 118 118 under another reference.

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 reconsidered everything, and having no further comment or information to consider, I see no reason to depart from my provisional conclusions. I appreciate that this will be very disappointing for 118 118 but I remain of the view that Mrs M's complaint should succeed.

As before, when making my decision, I've also had regard to the regulator's rules and guidance on responsible lending (set out in its consumer credit handbook – CONC) which lenders, such as 118 118, need to abide by. 118 118 will be aware of these, and our approach to this type of lending is set out on our website, so I won't refer to the regulations in detail here but will summarise them.

Before entering into a credit agreement, 118 118 needed to check that Mrs M could afford to meet her repayments out of her usual means for the term of the loan, without having to borrow further and without experiencing financial difficulty or other adverse consequences. The checks needed to be proportionate to the nature of the credit (the amount borrowed, for example) and take into consideration Mrs M's particular circumstances. 118 118 needed to bear in mind that certain factors might point towards a more rigorous assessment and others towards a less rigorous one when deciding what type of creditworthiness assessment was required.

Ultimately, 118 118 needed to treat Mrs M fairly and take full account of her interests when making its lending decision. It would not be lending fairly if "it targeted customers with regulated credit agreements which are unsuitable for them, by virtue of their indebtedness, poor credit history, age, health, disability or any other reason."

The questions I've considered are whether or not 118 118 carried out a proportionate affordability check before lending to Mrs M? If not, what would a proportionate check have shown? Did the checks 118 118 carried out show anything of concern and ultimately, did 118 118 treat Mrs M fairly and with due regard to her interests when it offered her the loan?

Mrs M stated that her income was £4,050 on her application form and that she was self-employed. 118 118 estimated that Mrs M spent £2,007 on living costs based on national datasets. It estimated that she spent £663 on debt repayments based on information from her credit file, and that she would have £1,830 left each month having met her loan repayment of £213.

The credit file information 118 118 relied on showed that Mrs M had £15,445 of existing debt, comprising two loans (with combined balances of around £2,000) and about 17 revolving credit accounts. It also showed she was over the limit on two of these accounts and had an arrangement to pay with a water company on an arrears balance of over £4,000.

The regulations at the time stated that it wasn't generally sufficient for a lender to rely solely on a customer's statement of income in a creditworthiness assessment and I think 118 118 should have verified Mrs M's income before lending to her on this occasion. Mrs M said she was self-employed and 118 118 had estimated that she would have about half her income left over each month, which seems at odds with having such a large debt with a utilities company. In addition, I think the information 118 118 saw on Mrs M's credit file ought to have prompted it to carry out a more rigorous check before offering her a loan so that it could reasonably assess whether or not she had the means to meet her repayments for term of the loan without difficulty.

Mrs M provided her bank statements and I've reviewed these. To be clear, I am not suggesting this is the information 118 118 should have looked at but it is the information I have and I think it's reasonable to rely on it to learn about Mrs M's finances at the time and what a proportionate check might have revealed.

The money paid into Mrs M's account was made up of state benefits including carer's allowances, personal independence payments (PIP), disability living allowances (DLA), income support, child tax credits and child benefit. Mrs M explained that one of her children received DLA, another received PIP and her husband received a carer's allowance alongside income support payments. The national insurance references on the payments support what Mrs M shared about them.

I don't think 118 118 could reasonably assume that all of these benefits and tax credits in their entirety were available to Mrs M to meet her loan repayments. The only benefits in Mrs M's name were a carer's allowance and PIP and these alone would not have covered her debt repayments. Even assuming that she retained all of the child benefit and child tax credits paid into her account, she had seven dependents whom these payments were provided to support.

I also don't think 118 118 could reasonably assume that these benefits and tax credits would be paid for the whole three years of the loan term, given these types of benefits are usually reviewed periodically and some were age or education dependent. Mrs M told us that the level of tax credits awarded per child was dependent on the child's level of DLA or PIP, for example, and child benefit was dependent on the age of the child and whether or not they were in education. I understand that carers' allowance payments are usually paid to people caring for those in receipt of DLA or PIP.

The statements also show payments into Mrs M's account from her daughter with the reference 'rent' and ad-hoc contributions from family members. There were many payments from the account covering living costs and debt repayments. Clearly, Mrs M's finances were shared with her family. If 118 118 considered all of the deposits to Mrs M's account in its assessment, it would need to consider all of the expenses in order to estimate how much disposable income remained to meet the loan payments. I don't think 118 118 considered whether Mrs M's husband had any personal expenses or existing debt repayments, for example.

When Mrs M had difficulty meeting her repayments, 118 118 carried out a detailed income and expenditure assessment with her and provided a copy of the budget form she completed. This assessment was carried out in May 2023, some ten months after the loan was taken out. It shows a significant decrease in the level of benefits and tax credits. Mrs M told us that her child's DLA was re-assessed and not renewed, and her other child's PIP payments ended when they left education. Both children leaving education meant a reduction in the child benefit payments and the child tax credits. I don't know whether Mrs M's carer's allowance was also impacted.

118 118 recorded that by May 2023 Mrs M had £21,500 of existing debt across three loans, 13 revolving credit accounts and 12 catalogue accounts. It also noted that Mrs M had £2,550 in gas and electricity arrears and was paying £60 a month to 'court orders or debt collectors'. The assessment concluded that Mrs M would not be able to meet her repayments under the agreement, after her living costs and other debt repayments were taken into account.

I think 118 118 would have learnt through a proportionate check before entering into the agreement that there was a high risk Mrs M wasn't going to be able to meet her repayments for the loan without difficulty and would likely have declined to lend to her on this occasion. I think her difficulty meeting her repayments was foreseeable and I don't think 118 118 treated Mrs M fairly or with due regard to her interests when it entered into the agreement.

Putting things right

I've concluded that 118 118 was irresponsible to have agreed a loan for Mrs M in August 2022. I think it's fair that Mrs M repays the capital amount she borrowed as she's had the use of the money but I don't think it's fair that she pays any interest, fees or premiums associated with the loan.

To put things right for Mrs M, 118 118 should:

- Cap the amount she needs to repay at the capital amount she borrowed;
- Consider all payments she's made as payments towards this capital amount; and
 - If Mrs M has repaid more than the capital she borrowed, which I don't think is the case here, then 118 118 should refund these overpayments to her along with 8% simple interest per annum**; or
 - If she hasn't yet repaid the capital then 118 118 needs to treat Mrs M fairly and with forbearance which may mean agreeing an affordable repayment plan with her.
- Remove any adverse information about this loan from Mrs M's credit file once settled.

If 118 118 has sold the outstanding debt then it either needs to buy it back or work with the current debt owner to bring about the above steps.

** HM Revenue & Customs requires 118 118 to take off tax from this interest. 118 118 must give Mrs M a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons I've explained above I'm upholding Mrs M's complaint about Madison CF UK Limited trading as 118 118 Money and it now needs to put things right for her as I've set out.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 29 February 2024.

Michelle Boundy
Ombudsman