

The complaint

Miss C complains that Commsave Credit Union Limited (“Commsave”) ought not to have lent to her on two occasions as the lending was both unaffordable and irresponsible.

What happened

In February 2021 Miss C applied to Commsave for a loan. She borrowed £500 over a term of 12 months with repayments of £47.28 per month.

In October 2021 Miss C applied for a further loan with Commsave. This time she borrowed £8,387.14 over a term of 84 months with repayments of £152.61 per month.

Miss C complains that Commsave acted irresponsibly in approving the two loans and didn’t take reasonable and proportionate steps to look into her financial circumstances. In particular, Miss C complains that the lending was also irresponsible as she had an issue with spending her money on gambling.

Commsave says it carried out an appropriate creditworthiness assessment before granting both loans. It was satisfied that it had carried out reasonable and proportionate checks to ensure that the lending was both affordable and sustainable. It therefore didn’t agree it had acted inappropriately and it did not agree that it had to refund any interest or charges it had applied to Miss C’s account.

In my provisional decision dated 29 January 2024 I explained why I wasn’t intending to uphold Miss C’s complaint. Essentially, based on the evidence and information I’d seen, I wasn’t in a position to say Commsave had acted unfairly in agreeing to grant each loan.

I set out an extract below:

“Loan 1: £500

At the time of this loan Miss C had a credit history with 11 defaulted accounts, although the most recent default was just over a year old. There was no history of county court judgments registered against her. However, I agree that her credit history suggested a background of problems with managing credit. Miss C owed just under £10,000 in unsecured credit. She was also in an arrangement to pay for her mortgage, for which she was jointly responsible.

Given what I’ve already said about other sources of household income, I think the key issue here is knowing that Miss C had access to enough funds to be able to fund the loan repayments. Taking into account the level of household income and breakdown of monthly outgoings, including debt commitments, that Miss C provided, I would say for repaying a loan of this amount and over a year’s duration, other checks including proof of income weren’t necessarily required. So, my current view is that Commsave’s checks were proportionate for this loan. I don’t think at this point there was enough to show or suggest that better checks needed to be carried out.

That leaves the question of whether Commsave's lending decision was fair for this loan. As I've said, the loan appears to be relatively modest but that needs to be looked at alongside Miss C's available income.

Under the terms of the proposed loan agreement Miss C would be paying a total of £567 over the year, including the loan interest. The breakdown of household income showed just under £2,300 in monthly income. And in relation to household expenditure it showed just under £900 in disposable income, after payment of essential day-to-day living costs, plus food and other loan/credit costs. And, thinking about Miss C's issues with gambling, given that Commsave didn't know about this, and nor would I have expected it to based on the checks it carried out, I don't think this is a factor that's directly relevant to this particular lending decision.

Loan 2: £8,387.14

This loan was for 84 months and so was a much longer financial commitment. It was intended for consolidation purposes. The total cost of the loan was also much higher, adding around £4,400 to the amount being lent.

Commsave asked Miss C to provide a payslip. This showed Miss C had a monthly income of just under £1,000 a month. So the total household income worked out at just over £3,000. Commsave obtained an updated credit report, showing a reduction in her total debt and that she had also resumed repaying her mortgage. Her total unsecured credit commitments had gone down to just under £6,000 and there had been a significant increase in the number of settled credit accounts she was holding. There had been no further defaults on borrowing. I think it's fair to say therefore that based on the credit check alone, Miss C's overall financial situation appeared to have improved to some extent.

Miss C had applied for and been turned down for a top up loan...shortly after being approved for the first one. At the time Commsave had requested a bank statement and had noted a high level of spending on gambling. That would have put Commsave on notice of Miss C's issue with gambling as a potential risk factor that could lead to a deterioration in her financial position. Commsave hasn't given us the bank statement information it obtained from Miss C at the time of approving this loan – although it said it used it to update the household expense details she'd put on her loan application. I cannot say whether this showed evidence of gambling at this point – although according to what Miss C has told us it likely would have done. In any event, having turned her down for a low value loan due to gambling, I agree that Commsave ought to have been taking steps to discover more about Miss C's committed expenditure and also how she was using her own income as well as other household income.

I've also noted that this loan was requested for the purpose of consolidating other debt. Miss C didn't specify how this was to be used. It's not clear if she intended to use it to pay off her existing debt, including the sums previously defaulted, or for other debt – or to use some of the funds for another purpose. I appreciate if that if Commsave had asked if she intended to use it for further gambling, it's unlikely that Miss C would have said so. So I agree it was unclear as to how exactly she was intending to use the loan funds.

As things currently stand, I therefore don't think Commsave carried out proportionate checks. I appreciate that it isn't unusual for Commsave's loan applicants to already have stretched financial circumstances by virtue of the very fact that a Miss C has approached them as a lender of 'last resort.' But having become aware of a potential issue with gambling, I think Commsave needed to do more to address such concerns and be satisfied that it was making a fair lending decision and that the loan funds were not likely to contribute to a worsening of her financial situation.

I think it would have been proportionate for Commsave to have carried out better checks by way of verifying Miss C's income and asking for more details about her expenditure.

In order to make a finding that this loan decision ought not to have been made, I need to establish that it was likely to have been unaffordable to Miss C. One way to help do this would be to have sight of the bank statement Commsave relied on for the second loan. That would be of assistance to some limited extent, but not enough to give a fuller picture of Miss C's financial circumstances at the time.

But I also ask that Miss C provides us with some further details and evidence about her financial circumstances at the relevant time. I would also expect to see details about those of her partner in order to gain a better idea of how household income was being used and the overall impact that Miss C's issues with gambling might be having on that. All of this will help me to understand what, if anything, Commsave might have found out, in addition to what it already knew, if it completed reasonable and proportionate checks.

I must emphasise that without any further information from Miss C – in addition to that held by Commsave which I also hope to see forwarded to me – I will not have the benefit of any further evidence or information to enable me to consider whether or not Commsave made a fair lending decision."

Both Commsave and Miss C have responded to my provisional decision with further evidence and information. I am very grateful for that.

Miss C has told me about what happened when she applied for each of the two loans. This includes the following points:

- That in January 2021 she had made Commsave aware of her gambling transactions when they asked her for further information;
- That in September 2021 she was borrowing heavily from short-term high-cost lenders;
- That her partner was also relying on short-term high-cost borrowing;
- That the money Miss C regularly transferred to her partner was only for household expenses.

Miss C has also provided bank statement information for both her and her partner immediately prior to the October 2021 loan. Miss C has pointed to the level of new borrowing she took out in September 2021 as showing she wouldn't be able to afford the new loan.

Commsave has provided the bank statement it relied upon when approving the second loan, covering mid-July to mid-August 2021. It also said that the loan funds were paid direct to each of the creditors whose borrowing Miss C was consolidating into one loan. Commsave says it believes it carried out reasonable and proportionate checks for both loans.

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.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulator's rules, guidance and standards and codes of practice and (where appropriate) what I consider to have been good industry practice at the time.

I've read and considered all the new evidence and information that Miss C and Commsave have provided but will focus on what I think is relevant to reaching a fair and reasonable merits finding in this complaint.

At my request Commsave sent in a copy of the bank statement Miss C provided at the time of the second loan. This covered the period from mid-July to mid-August 2021. Miss C's account remained in credit throughout this time. Miss C was still relying on short-term high-cost borrowing. I also note that funds were being transferred into her account from her partner from time to time. And whilst I can see Miss C was transferring funds to and from a separate savings account, there was no direct evidence of gambling transactions. Miss C's updated credit report showed a reduction in her overall level of debt, to the extent that she was once again making repayments to her mortgage. At the same time her level of unsecured borrowing had reduced and she had been able to settle nine of her lending accounts since the February 2021 check.

Both Miss C and Commsave have explained what happened when Miss C was declined for a further loan in February 2021, immediately after obtaining the first one. Commsave had made that decision after it had asked Miss C to provide additional bank account evidence that had shown evidence of gambling transactions. Commsave said it had decided to request additional evidence given that Miss C was applying for another £500 one day after gaining the first £500 loan.

Commsave's lending terms required a consumer, when requested, to provide a bank statement showing one month of transactions from within 3 months of a consumer making a loan application. As I've said, the statement Miss C gave Commsave was for July-August 2021. So Commsave didn't see evidence of transactions from September 2021. But Commsave was also running an up to date credit check, obtaining details of Miss C's debts, household and personal costs and verifying her level of income before agreeing to lend to her.

Putting all this together, whilst I am grateful to both parties, the further evidence and information I've seen doesn't lead me to change my overall finding that both loans were granted fairly. In addition, having noted that the funds for the second loan were to be paid direct to the various lenders, I think Commsave's checks before agreeing to the second loan were enough to establish that Miss C was likely to find the loan repayments to be affordable.

It follows that my overall provisional finding remains unchanged and so I will not be upholding this complaint.

My final decision

For the reasons I've set out above, I do not uphold this complaint and so Commsave Credit Union doesn't have to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 20 March 2024.

Michael Goldberg
Ombudsman