

The complaint

Miss L complains that Secure Trust Bank Plc trading as Moneyway (MW) didn't carry out sufficient checks to establish she could afford to sustain the repayments before they agreed to lend to her.

Miss L is represented by a third party in bringing her complaint. But for ease of reading, I will only refer to Miss L in my decision.

What happened

In November 2018 Miss L acquired a car when she entered into a hire purchase agreement with MW. The cash price of the car was £6,495, Miss L paid a deposit of £495 and after interest and charges were applied the total amount, she'd to repay was £9,760. This was repayable in monthly instalments of £154.25, with a final payment of £164.25 over 60 months. Miss L said MW should have seen that she'd previously struggled financially, and that she'd several credit commitments which should have shown that she wouldn't be able to sustain the repayments. Miss L complained to MW saying they hadn't checked her financial situation sufficiently to determine the affordability of the lending.

MW said they carried out a credit worthiness assessment for Miss L on her application. They said Miss L had a monthly income of £1,400 and had taken account of her rent and cost of living based on Miss L being single and living with her parents. They'd also taken account of her credit commitments, and that her credit file didn't raise any issues. They assessed Miss L to have sufficient disposable income after the new lending was factored in to sustain her repayments.

Miss L didn't agree and referred her complaint to us.

Our investigator said on the evidence provided by MW a further check of Miss L's financial situation should have been done as they hadn't verified her income. And there were signs she was struggling to meet her credit commitments shortly before the lending. But having reviewed Miss L's financial situation at the time of the lending he said the lending was affordable and that Miss L could sustain the repayments.

Miss L didn't agree. She said the amount of disposable income wouldn't allow for any unexpected expenditure. She asked for an ombudsman to decide.

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.

I appreciate Miss L will be disappointed but having done so I'm not upholding this complaint. I'll explain why.

MW needed to ensure that they didn't lend irresponsibly as per the rules set out in the Financial Conduct Authority's (FCA) Consumer Credit Sourcebook (CONC). In practice,

what this means is that MW needed to carry out proportionate checks to be able to understand whether any lending was affordable for Miss L before providing it.

In this case, there are two overarching questions that I need to answer to fairly and reasonably decide Miss L's complaint. These two questions are:

1. Did MW complete reasonable and proportionate checks to satisfy themselves that Miss L would be able to repay her loan without experiencing significant adverse consequences?

- If so, did they make a fair lending decision?
- If not, would those checks have shown that Miss L would have been able to do so?

2. Did MW act unfairly or unreasonably in some other way?

Repaying debt in a sustainable manner means Miss L being able to meet repayments without undue difficulty - using regular income, avoiding further borrowing to meet payments and making timely repayments over the life of the agreement.

CONC doesn't give a set list of checks that should be done. But that the level of detail that should be sought was dependent on the type of credit, the amount of credit being granted and the associated risk to the borrower relative to the borrower's financial situation.

So, I'd expect a lender to require more assurance the greater the potential risk to the borrower of not being able to repay the credit in a sustainable way. I'd expect a lender to seek more assurance the lower a person's income, the higher the amount of credit being applied for and the longer the term of the agreement.

So, I've considered the checks MW did.

MW said Miss L had declared her income to be £1,400, and that she was single living with her parents. They said they checked her credit commitments from her credit file, and found she was running her accounts well. They considered the housing costs for properties within her postcode and determined her day to day living costs from data from the Office for National Statistics (ONS). They assessed Miss L's expenditure to be £605, and after factoring in the new lending she'd have had a disposable income of over £600 a month. Bases on this they decided the lending was affordable.

I've looked at the credit bureau information that MW saw and I can see that Miss L had in the previous six months fallen five payments behind with one of her credit cards which had a relatively low credit limit. The account had been brought up to date before Miss L applied for the new lending. I can also see her other credit card was over its limit. And she'd missed a payment for a mail order account in the same period, again the account was up to date. I don't think this shows Miss L was managing her accounts well, but that she was at times struggling financially.

Taking this into account, I think MW ought to have done further checks into Miss L's financial position and personal circumstances to establish whether the lending they subsequently provided was affordable for her or not.

But saying MW should have done more before lending to Miss L doesn't automatically mean her complaint should succeed. I also need to be persuaded that what I consider to be proportionate checks would have shown MW that Miss L couldn't sustainably afford the credit. As previously mentioned, there isn't a set list of checks that a lender should make, but bank statements will I think usually provide a good understanding of someone's financial situation as they should show their income and essential outgoings.

Miss L has provided bank statements for the three months prior to the lending. I understand Miss L was out of work around August 2018, and I can see that she'd made payments to short term lenders in the month of October 2018. But I can also see that during this time Miss L found further employment and at the time of the lending she was being paid weekly usually £356.04 which equates to an average monthly salary of around £1,500. Miss L has confirmed she lived with her parents and contributed around £200 to housing and food costs. I've also considered Miss L's regular outgoings for car insurance, car tax, parking fees, petrol, mobile phones, media and a minimum payment based on the full utilisation of her credit card limits, which together amounts to around £600 a month. After factoring in the new lending of £154.25, I think Miss L did have sufficient disposable income to sustain her monthly repayments. So, I don't think MW acted unfairly or unreasonably in lending to Miss L.

I can see that Miss L settled the agreement in November 2023.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 10 April 2024.

Anne Scarr
Ombudsman