DRN-4652405

The complaint

Mrs P is complaining about Admiral Financial Services Limited trading as Admiral Money because she says it lent to her irresponsibly by providing a loan she couldn't afford to repay.

What happened

In March 2022, Admiral Money gave Mrs P a loan of £12,500 for a term of four years, with a monthly repayment of £291. The stated purpose of the loan was to purchase a car.

Our investigator concluded the complaint should be upheld. She felt Admiral Money should have carried out a more detailed affordability assessment and that, if it had, the information it would likely have discovered would have shown the loan repayments were unaffordable.

Admiral Money didn't accept the investigator's assessment. It disputes that the information it obtained should have prompted further affordability checks. It also says Mrs P's existing debt was well managed, noting the balance of her and her husband's account remained within the agreed overdraft limit.

The complaint has now been referred to me for review.

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 done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time.

Before lending to Mrs P, Admiral Money was required to carry out appropriate checks to ensure the repayments were affordable and sustainable. To decide whether this requirement was met, the key questions I need to consider are:

- Did Admiral Money complete reasonable and proportionate checks to establish that Mrs P would be able to repay the loan in a sustainable way?
- If so, was the decision to lend fair and reasonable?
- If not, what would reasonable and proportionate checks have discovered, and would the decision to lend have been fair and reasonable in light of that information?

The rules, regulations and good industry practice in place at the time the loan was approved required Admiral Money to carry out a proportionate and borrower-focused assessment of whether Mrs P could afford the repayments. This assessment also had to consider whether the loan could be repaid sustainably. In practice this meant Admiral Money had to satisfy itself that making payments to the loan wouldn't cause undue difficulty or adverse consequences. In other words, it wasn't enough to simply think about the likelihood of her making payments, it had to consider the impact of the repayments on Mrs P.

The affordability assessment and associated checks also had to be proportionate to the specific circumstances. What constitutes proportionate checks depends on a number of factors including, but not limited to, the particular circumstances of the consumer (for example their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount, type and cost of the credit being considered. Even for the same customer, a proportionate check could be different for different applications.

In general, I think a reasonable and proportionate assessment should be more thorough:

- the lower the customer's income, reflecting that it could be more difficult to make repayments from a lower level of income;
- the higher the amount due to be repaid, reflecting that it could be more difficult to meet a higher repayment from a particular level of income;
- the longer the term of the credit, reflecting the fact that the total cost is likely to be greater and the customer is required to make payments for an extended period; and
- the greater the instances and frequency of credit, and the longer the period of time during which a customer has been given credit, reflecting the risk that repeated refinancing may signal borrowing has become unsustainable.

There may also be other factors that could influence how detailed a proportionate check should've been for a given application, including any indications of borrower vulnerability or foreseeable changes in future circumstances.

Admiral Money has described the information it gathered to assess whether Mrs P's loan was affordable before it was approved. This included:

- *information contained in* her *application, including* her *income, which was separately verified;*
- *information obtained from a credit reference agency (CRA), giving details of* her *existing credit arrangements and any past issues with credit, including missed payments and defaults; and*
- *an expenditure assessment using a combination of modelled data for key expenses, along with actual data from the CRA about the cost of* her *existing credit arrangements.*

Admiral Money maintains its affordability assessment was proportionate to the loan being given.

After carefully reviewing the information Admiral Money obtained, I share the investigator's view that there were factors that should have prompted it to carry out further checks before approving Mrs P's loan. And I don't agree the affordability assessment based mainly on modelled statistical data, rather than her actual circumstances, was reasonable and proportionate in this case.

In particular, I'm conscious Mrs P was borrowing a large amount with a substantial monthly repayment over a protracted period and that her overall debt including the loan (over £22,000) was high compared to her declared income. Further, the loan was intended for a car purchase and there's no suggestion she intended to repay any of her existing debt. I believe this information suggests Mrs P would end up being heavily indebted and that further checks were required to complete a proportionate affordability assessment.

I can't know exactly what further checks Admiral Money might have carried out at the time, but I think a consideration of Mrs P's actual income and expenditure would have been reasonable. So we've obtained copies of her bank statements for the three months prior to the lending to establish what information could reasonably have been discovered.

A review of these statements shows Mrs P's actual monthly income was lower (£1,836) than the amount of Admiral Money says it assumed (£2,086) for its affordability assessment. The statements are for a joint account with her husband, who also received a wage, but Mrs P has provided a payslip to confirm the above figure was her income.

In addition, the statements show that prior to each payday the account was approaching £2,000 overdrawn. Mr and Mrs P received their wages on the same day and this returned the account to a positive balance briefly. But the following day, after their direct debits were paid (including mortgage and other debt repayments), the account went overdrawn again and the debit balance build back up to the same level before the next payday. This was a pattern that repeated itself throughout the period I reviewed.

The statements do show payments to another account, which Mrs P says was a sole account for her day-to-day expenses. She's provided statements for this account that show it didn't have a significant positive balance and money was spent pretty much as soon as it was received.

In my view, the bank statements appear to show Mrs P's income was lower than Admiral Money had believed and that she was living beyond her means and reliant on her overdraft for her normal living expenses. I appreciate the account balance was kept inside the agreed overdraft limit, but I don't think that demonstrates she'd be able to afford a further monthly payment of £291 to finance the new loan. If Admiral Money had seen this information, it's my view that it should have concluded the loan repayments weren't affordable.

In summary, if Admiral Money had adequately assessed whether the loan repayments were affordable and sustainable, it's my view it shouldn't have lent to Mrs P. It's for this reason that that I'm upholding this complaint.

Putting things right

The principal aim of any award I make must be to return Mrs P to the position she'd now be in but for the errors or inappropriate actions of Admiral Money. But that's not entirely possible here as the lending provided can't be undone.

Because I don't think Admiral Money should have lent to Mrs P, I don't think it's fair for her to pay interest or charges on the amount borrowed. But she has had use of the money that was lent, so I think it's fair she repays the amount borrowed (without the addition of interest or charges).

To put things right, Admiral Money now needs to take the following steps:

- Calculate the total of all Mrs P's payments towards the loan, including all interest, fees, charges and insurances (not already refunded).

- If this exceeds the £12,500 borrowed, any excess above £12,500 should be paid to her with simple interest at 8% per year from the date of each overpayment to the date of settlement.

HM Revenue & Customs (HMRC) requires Admiral Money to deduct tax from any interest. It must provide Mrs P with a certificate showing how much tax has been deducted if she asks for one. If Admiral Money intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

- If the total of all Mrs P's payments doesn't exceed the £12,500 borrowed, Admiral Money should arrange an affordable payment plan with her for the shortfall.

- Remove any adverse information recorded on Mrs P's credit file relating to this loan, once any outstanding balance has been repaid.

I'm satisfied this represents a fair and reasonable settlement to this complaint.

My final decision

For the reasons I've explained, I'm upholding Mrs P's complaint. Subject to her acceptance, Admiral Financial Services Limited trading as Admiral Money should now put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 30 April 2024.

James Biles
Ombudsman