

The complaint

Mr P says Brent Shrine Credit Union Limited, trading as My Community Bank, irresponsibly lent to him.

What happened

Mr P took out a 48-month loan for £20,000 on 5 July 2022. The monthly repayments were £552.97 and the total repayable was £26,939.91.

Mr P says Brent Shrine CU did not do enough checks before lending. He had around £93,000 of unsecured debt and a history of using payday loans as the result of a gambling problem. He had to enter a debt management plan (DMP) and asks for all interest and charges to be refunded and for any related adverse information to be removed from his credit file.

Our investigator did not uphold the complaint. She said Brent Shrine CU's checks were proportionate and did not show Mr P was unlikely to be able to sustainably repay the loan.

Mr P disagreed and asked for an ombudsman's review. He said given his level of debt using national averages for checks was not appropriate.

I was minded to make a different decision to the investigator so I issued a provisional decision. An extract follows and forms part of this final decision. I asked both parties to submit any comments or new information by 4 March 2024.

Extract from my provisional decision

I can see Brent Shrine CU asked for some information from Mr P before it approved the loan. It asked for details of his income and checked this with a third party. It also checked his credit file to understand his credit history and existing credit commitments. It estimated his outgoings using national averages. I have not seen any evidence that it asked about the purpose of the loan. From these checks combined Brent Shrine CU concluded Mr P would be able to sustainably afford to repay the loan.

I don't think these checks were proportionate in the circumstances of this case. Mr P was agreeing to repay a large loan over a four-year period and Brent Shrine CU knew from its initial checks that he already had a high level of unsecured debt (around £93,000) and was spending a large proportion of his income on repaying this debt.

I have looked at Mr P's bank statements from the three months prior to his application. I am not saying Brent Shrine CU had to do exactly this but it's one way it could have better understood Mr P's finances. They show that his monthly net income was around £5,500 so by giving this loan Brent Shrine CU was putting Mr P in the position whereby he would need to spend over two thirds of his income on his unsecured debt repayments each month.

I think as a responsible lender Brent Shrine CU would have realised this meant there was a high risk Mr P would be unable to sustainably repay the loan. The statements also show

Mr P was persistently reliant on his overdraft facility and was not using that product for short-term financial support as it is intended. So I think it was most likely he would rely on that facility to make these repayments – in essence, borrowing to repay. In the round, I think it was clear giving this loan was most likely to cause Mr P financial harm and proportionate checks would have shown the lender that.

I find Brent Shrine CU was wrong to lend to Mr P. I have not seen any evidence it acted unfairly towards Mr P in some other way.

I then set out what Brent Shrine CU would need to do to put things right.

Mr P replied saying he accepted the outcome in the provisional decision. Brent Shrine CU did not respond.

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.

Our approach to complaints about irresponsible/unaffordable lending – including all the relevant regulations, guidelines and industry best practice – is set out on our website. I have taken it into account here.

As neither party sent in any comments or new evidence I have no reason to change the findings or outcome I set out in my provisional decision.

It follows, for the reasons set out above, I find Brent Shrine CU was wrong to lend to Mr P.

Putting things right

It is reasonable that Mr P repay the capital he borrowed as he has had the benefit of that money. But he has paid interest and charges on a loan that should not have been given.

So it will have to:

- Refund/remove all interest and charges and treat all repayments Mr P made as repayments of the capital.
- If this results in any overpayment this should be refunded to Mr P along with 8% simple interest (calculated from the date the overpayments were made to the date of settlement)*.
- If this results in there being an outstanding capital balance Brent Shrine CU must agree an affordable repayment plan with Mr P.
- Remove any adverse information from Mr P's credit file once any outstanding capital balance has been repaid.

If Brent Shrine CU has sold the debt it must first try to buy it back. If this is not possible it must work with the new owner to achieve the same outcome as the steps above.

*HM Revenue & Customs requires Brent Shrine CU to take off tax from this interest. Brent Shrine CU must give Mr P a certificate showing how much tax it's taken off if he asks for one. If it intends to use any refund to reduce the capital balance outstanding it must do so after deducting tax.

My final decision

I am upholding Mr P's complaint. Brent Shrine Credit Union Limited, trading as My

Community Bank, must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 2 April 2024.

Rebecca Connelley
Ombudsman