DRN-4697464

The complaint

Miss C complains that Together Personal Finance Limited irresponsibly lent her a second charge mortgage (secured loan).

What happened

Miss C took this loan in 2019. She borrowed around £68,000 including fees over a term of 25 years. The loan was on repayment terms, with a variable interest rate of 7.65%.

The purpose of this loan was to consolidate two previous secured loans – one with Together, which had an outstanding balance of around £52,500 and one with another lender which had a balance of around £9,700. The rest of the balance of this loan was taken up with fees.

Miss C maintained the payments on this loan for around three years. But in 2022 she fell into arrears – at around the same time as interest rates rose, Miss C fell ill and her income reduced.

Miss C complained that the loan was irresponsibly lent and should never have been given to her. Our investigator agreed, and said that Together should remove all interest charged to the loan, treating Miss C's payments as payments to the capital.

Together didn't agree with that. It accepted that it had made mistakes in the affordability assessment and that had affordability been considered correctly it's likely it wouldn't have agreed to the loan. But it said that Miss C had nevertheless benefitted from it, and been able to afford it until her circumstances changed. It offered to fix the interest rate at 7.65% for the whole term, and to write off the arrears and arrears fees incurred to date.

As no agreement could be reached, the case comes to me for a decision to be made. I issued a provisional decision setting out my thoughts on the complaint.

My provisional decision

I said:

> "Together has, on reflection, accepted that Miss C's application didn't meet its lending criteria and that it shouldn't have lent.
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> Together accepts that it didn't properly assess Miss C's expenditure – in particular, that it made an error about the amount of council tax she paid even though it had a copy of her council tax bill to use as proof of address. It accepts it should have identified this error, and accepts that if it had used the correct figure Miss C would have been just under, rather than just above, its threshold for affordability.
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> Our investigator thought that wasn't Together's only error in the affordability assessment. In particular, he thought that Together had also over-estimated Miss C's income, because it hadn't made allowances for an exceptional month when taking average income. Together didn't agree about that; it said it had looked at what Miss C actually earned over six months to take a monthly average income. Ultimately, I

don’t think I need to resolve this, since it’s accepted that, regardless of this, the loan should never have been lent – so I think the key thing for me to focus on is what steps Together needs to take to put things right.

In considering that, I think it’s important to focus on the context in which this lending decision was made.

Together did not give Miss C advice about this loan; it was recommended to her by an independent broker. The broker that recommended this loan is in liquidation, so it may not be able to deal with any complaints or pay redress if upheld. But it may be that in due course the Financial Services Compensation Scheme may be able to consider complaints against the broker.

But in any case, Together is not responsible for the advice that Miss C was given to take this loan. Its only role here was to consider the application the broker made on her behalf, and consider whether it was responsible to lend.

The purpose of this loan was to consolidate and repay two previous secured loans, one with Together and one with a different lender I’ll call E. Those loans in turn seem to have replaced previous secured loans, so it seems Miss C has been given advice to take out a series of escalating secured loans in recent years – but as I say, that’s not something I can consider in this complaint.

The previous loan with Together was taken out in 2018. Miss C borrowed £53,500 including fees over 25 years. The interest rate was fixed at 8.4% for five years, to be followed by a variable rate. The balance was around £52,500 at the time of this loan, and the monthly payment was around £426.

I don’t have a copy of the offer of loan from E. But according to the information gathered by the broker (corroborated by what’s on Miss C’s credit file), the loan was over a fifteen year term with a balance of around £9,700 and a monthly payment of £191. Based on that, I’ve estimated that the interest rate was around 22%.

This new loan with Together replaced both those loans, paying them off in full. The new loan was at a lower interest rate than both loans (albeit a variable rate not a fixed rate) – 7.65%. The monthly payments were £510 at the start of the loan (they increased from 2022 when interest rates began to increase).

While I agree this loan shouldn’t have been lent, I think it’s important to think about whether Together’s lending decision caused Miss C any detriment. Overall, I’m not persuaded that it did.

The loans consolidated were secured loans, so Miss C wasn’t swapping unsecured debt for secured debt. The new loan reduced both the interest rate and the monthly payments. While the interest rate and monthly payments later increased, that would have been the case had she not taken this loan and retained the other loans instead. The reversion rate on the previous Together loan was 8.4% - higher than the rate on this loan. So while her payments would have been fixed until 2023 rather than increasing from 2022, they would then have been higher. And I don’t think the loan with E was on a fixed rate, so that would have increased from 2022. Therefore while this loan became more expensive from 2022, I think it’s likely that had Miss C not taken this loan and kept the two previous ones, her payments would have increased further from 2022 and especially from the end of the fixed rate in 2023. This loan did increase her overall debt, because of the addition of fees, but most of the fees added were charged by the broker and Together is not responsible for that – and even with

> those fees added, Miss C was still better off than she would have been had she not taken this loan.
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> So I'm satisfied that if Together had – as it should – refused Miss C's application she would have been worse off. She would have remained with her existing secured loans which were more expensive at the time, and would become more expensive when interest rates increased from 2022. While I appreciate Miss C is unhappy with this loan and feels it should never have been lent, I do think it improved her situation overall. I accept she was in a difficult position, especially from 2022 onwards, but had Together refused this loan that difficult position would have been worse.
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> In all the circumstances, I don't think it would be fair to ask Together to write off this loan, or remove the interest it has charged and will charge. Putting Miss C back in the position she would have been in had this loan never been lent would not leave her in that position, it would leave her worse off than she is with this loan.
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> With that in mind, I think Together's offer to resolve this complaint is fair. It says that the error with Miss C's outgoings caused the loan to fail its affordability assessment. But it only failed because of the interest rate stress test required because the loan was on a variable rate – had it offered a fixed rate, a stress test would not have been needed and the affordability assessment would have been passed.
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> Together has therefore offered to convert this loan to one where the interest rate is fixed at the starting rate of 7.65% for the remainder of the term – and it will backdate this to the start of the term. It's also offered to write off the arrears, interest on arrears and arrears fees Miss C has incurred since the interest rate began to increase in 2022 to give Miss C a fresh start. I think that's a fair offer. And if the loan remains unaffordable for Miss C after that, Together will need to work with her and offer appropriate forbearance."

Together had no further comments to make. Miss C said she was unhappy with the outcome, but she had nothing further to add to what she'd already said. She asked for clarity on what Together's offer would mean for the balance of her loan, which Together was able to provide. It would result in a substantial reduction of the balance, plus writing off arrears of around £8,000. There would also be a reduction in monthly payments by around £200 per month, back to what they were at the start of the loan.

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.

For the reasons I gave in my provisional decision, I think Together has made a fair and reasonable offer to settle this complaint. I've not seen anything that has led me to change my mind about that.

My final decision

My final decision is that I think Together Personal Finance Limited has made a fair offer. It should:

- Fix the interest rate at 7.65%, backdated to the start of the loan.
- Re-work the balance based on that interest rate, writing off all arrears and arrears fees to date.

- Write to Miss C confirming the new balance and monthly payment for the remainder of the term.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss C to accept or reject my decision before 22 April 2024.

Simon Pugh
Ombudsman