DRN-4745963

The complaint

Miss N has complained that Madison CF UK Limited trading as 118 118 Money ("Madison") didn't carry out sufficient affordability checks before it lent to her.

What happened

Miss N was granted one loan for £2,500 on 20 June 2020. Miss N was due to make 24 monthly repayments of £156.66. Miss N made the first five contracted payment up to December 2020 before she started to have payment difficulties. Madison then took the decision to sell the debt to a third-party collection agency in October 2021.

Following Miss N's complaint Madison wrote to her explaining that her application had gone through an extensive affordability check which showed she'd be able to afford her monthly repayments. Unhappy with this response, Miss N referred the complaint to the Financial Ombudsman.

In our investigator's assessment, he upheld Miss N's complaint. He concluded; the credit check results received by Madison before granting the loan ought to have led it to conduct more thorough checks into Miss N's finances. Those further checks would've highlighted significant regular living costs and that from May 2020 Miss N spending significant sums on gambling websites.

Madison didn't agree and in summary it said;

- The most recent default was applied 10 months before the loan application and this default was satisfied a month later.
- The accounts with missed payments had occurred were around a year before this loan was approved. The same credit card had been over its limit but it had been brought up to date 4 months before the loan.
- Miss N hadn't opened any new credit accounts within 6 months of the loan application.
- The information contained with the "*application data*" Madison had provided was the information Miss N had given to it.
- Madison uses a standard industry tool to check Miss N's income and then it used data from her credit file as well as the Office of National Statistics (ONS). If the figures Madison provided were lower than what Miss N declared that it would use the larger of the two.
- Miss N had sufficient disposable income to afford the loan repayments.
- The checks Madison carried out didn't warrant further checks such as reviewing her bank statements.

As Madison didn't agree, the complaint has been passed to me 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.

We've set out our general approach to complaints about unaffordable/irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website.

Taking into account the relevant rules, guidance and good industry practice. The rules and regulations in place required Madison to carry out a reasonable and proportionate assessment of Miss N's ability to make the repayments under the loan agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower-focused" – so Madison had to think about whether repaying the loan would be sustainable. In practice this meant it had to ensure that making the repayments to the loan wouldn't cause Miss N undue difficulty or significant adverse consequences. That means she should have been able to meet repayments out of normal income without having to borrow to meet the repayments, without failing to make any other payment she had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on her financial situation.

In other words, it wasn't enough for Madison to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Miss N. Checks also had to be "proportionate" to the specific circumstances of the loan application.

In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of Miss N (e.g. her financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount 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 *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Miss N's complaint.

Miss N was asked to provide details of her income and she declared this to be £1,420 per month. Madison also says this income figure was checked using a tool provided by a well-known credit reference agency.

Madison says that it used data from her credit report (which I'll come on to below) as well as using averages and figures provided by the ONS. Madison says where there is a difference in what was declared compared to the results of its own check (for outgoings) than it uses the higher of the two values. In Miss N's complaint it assessed her affordability based on monthly outgoings of £1,032.86. So even with the loan repayment of around £156 per month Miss N had sufficient disposable income to afford the repayment.

Madison, as part of its affordability assessment carried out a credit search and it has provided the Financial Ombudsman with a summary of the results it received from the credit reference agency. I want to add that although Madison carried out a credit search there isn't a regulatory requirement to do one, let alone one to a specific standard. But what Madison needed to do was consider the results it was given.

Based on the credit check results – superficially it knew Miss N had around £3,600 of existing debt spread across six active credit accounts. Miss N had one current account – and the results indicated she wasn't utilising the overdraft, a telecommunication account and then four credit cards. At the time the credit check was conducted all the accounts were within the credit limits.

In saying that, a credit card had been over its credit limit towards the end of 2019 – although it had been corrected by December 2019, there were also missed payment markers recorded on the credit file around a year before the loan was advanced.

There were also three defaults. Two of the defaults had been recorded in 2015 and both had been settled in the first half of 2016. These defaults were sufficiently historic for Madison to not have been concerned.

However, it was told that Miss N had defaulted on a payday loan account in August 2019 - so just under a year before the loan was granted. Although, as before Miss N had rectified the default by October 2019. I don't think in this case, Madison could just disregard the most recent default, especially in light of the credit card difficulties I've mentioned above, and the other information Madison was given about how she managed her other (closed) accounts.

Madison was also informed about Miss N's closed credit accounts, and it knew that in the year before the loan was advanced she had settled 11 loans which were likely either payday, high cost credit, home credit or other loans. Of these 11 accounts Miss N had difficulties repaying 4 of them. These four accounts had missed payment markers of at least "2" between May 2019 and September 2019. In addition, Miss N had such difficulties repaying these account that she had to enter an arrangement to pay on three of them between September and December 2019.

In the not too distance past, Miss N had defaulted on one account and had encountered repayment problems on 4 closed accounts and on one of her outstanding credit cards. So, I agree with the investigator, that Miss N's repayment problems ought to have prompted Madison to carry out further checks before it lent to her. These additional checks ought to have extended to verifying the information that Miss N had provided not just relying on what she had declared and ONS averages.

Madison could've gone about doing this several ways. It could've asked to see a copy of her payslip, copy bills, bank statements or any other documentation it felt that it needed to obtain before it lent to Miss N. I'm satisfied that Madison didn't take these extra steps and so I've used the bank statements provided by Miss N to see what Madison may have discovered had it carried out what I consider to be proportionate checks.

I've reviewed the bank statements from around the time the loan was approved. Had better checks been made it would've seen that Miss N's declared salary was broadly correct and on top of this she received some benefit payments as well.

However, more concerning was that Miss N says that she took a loan from a bank for £7,500 and I can see that credited her account at the start of June 2020. However, after that the majority of the funds were used on gambling and betting websites. Given the number, value and frequency of the gambling transactions, I'm satisfied that had Madison reviewed her bank statements I think it would've discovered Miss N's gambling transactions and decided that the loan was neither affordable nor sustainable.

Therefore, had Madison carried out what I consider to be a proportionate check, it would not have approved this loan. I've set out below what Madison needs to do in order to put things right for her.

Putting things right

I've concluded Madison was irresponsible to have provided Miss N with her loan. I think it's fair that Miss N repays the credit she borrowed as she's had the use of the money, but I don't think it's fair that he pays any interest or, fees associated with the account.

Madison has also confirmed the debt has been sold to a third-party collection agency, meaning that it no longer is responsible for the collection of the debt. Madison, should buy the debt back if it is able to do so and then take the following steps. If Madison isn't able to buy the debt back then it should liaise with the new debt owner to achieve the results outlined below.

In order to put things right, Madison should:

- remove all interest, fees and charges applied to the loan;
- treat any payments made by Miss N as payments towards the capital amount;
- If Miss N has paid more than the capital then any overpayments should be refunded to her with 8%* simple interest from the date they were paid to the date of settlement,
- But if there's still an outstanding balance, Madison should try and come to a reasonable repayment plan with Miss N and I would remind it of its obligation to treat Miss N fairly and with forbearance; and
- remove any negative information about the loan from Miss N's credit file.

*HM Revenue & Customs requires Madison to deduct tax from this interest. Madison should give Miss N a certificate showing how much tax it's deducted, if she asks for one.

My final decision

For the reasons given above, I uphold Miss N's complaint.

Madison CF UK Limited trading as 118 118 Money should put things right for Miss N as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 23 May 2024.

Robert Walker
Ombudsman