

## The complaint

Miss C complains that North Edinburgh and Castle Credit Union Limited t/a Castle Community Bank ("CCB") lent to her when she was not able to afford it and did not carry out the correct checks before lending.

Miss C wants the whole debt written off and for her credit file to be amended.

## What happened

Miss C took one loan from CCB on 26 June 2023. It was for £10,000 and the interest was £5,972.50 so a total of £15,972.50 and this was repayable over 48 months at £330 each month. The APR on this loan was 27.85%.

Miss C was not able to keep up with these repayments and this loan along with her other debts led to a debt management plan (DMP). Through that DMP Miss C is paying a reduced amount each month to CCB of £140.52.

Miss C complained to it in January 2024, and she received CCB's response in which it gave reasons why it was not upholding her complaint. It stated that all loan applications are subject to full creditworthiness and affordability assessments. Miss C referred her complaint to the Financial Ombudsman Service.

CCB explained to us that from the information returned to them by the body it used to carry out the credit checks there was nothing to suggest that the loan would not be affordable for Miss C. It also said it was Miss C's responsibility to ensure she could afford the repayments. And that if Miss C had used the loan funds to pay down the debt as she had informed them she planned to do, then her overall position would have been better.

One of our investigators considered all the details from both parties and thought that CCB ought not to have lent to her. He considered that because of the size of the loan and the length of its term then a full financial review ought to have been carried out on Miss C's finances which he did not think it had done.

Our investigator did not think Miss C's bank statements and credit file showed she would be able to repay any borrowing in a sustainable manner without further borrowing. He considered that if CCB had carried out '*reasonable and proportionate checks*' it would've shown Miss C as being in a difficult position and spending more than she was earning.

CCB disagreed. And if the matter did result in an uphold, in relation to the redress our investigator had proposed, it did not consider it fair that the default on Miss C's credit file should be removed.

Miss C accepted the outcome in part but did not agree with the redress: she proposed that the current debt is halved to around £4,637 which would take her around three years to repay. I've answered these additional points raised by Miss C at the end of the decision.

The unresolved complaint was passed to me to decide.

Since receiving the complaint, I asked CCB for details to be clarified. I issued a provisional decision on 2 August 2024 as although the outcome remained an uphold, also I covered the additional points raised by both CCB and Miss C since our investigator's view. Both parties were given two weeks to respond.

CCB responded promptly accepting the provisional decision. It said that it had adjusted the interest on Miss C's account so that no interest will be payable on the loan. When the final decision is issued CCB says it will write to Miss C with the outstanding balance figures.

CCB told us that Miss C currently is meeting her reduced monthly payments and so it acknowledges that these will continue. It will write to Miss C to confirm.

We informed Miss C of CCB's response and she was content for the final decision to be issued now.

### **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.

The duplicated provisional decision findings and outcome are set out here in smaller type and indented to differentiate them from this final decision. And considering CCB has agreed and Miss C had nothing further to add when she knew CCB had agreed to those findings then I have no reason to depart from them. My provisional decision reasoning and findings are repeated here and are part of the final decision.

### ***My provisional decision dated 2 August 2024 duplicated***

#### **What I've provisionally 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.

CCB is a credit union regulated by the Financial Conduct Authority (FCA). I'm aware that some credit unions may not fall into the FCA's definition of a "*credit-related regulatory activity*." CCB does.

The Community Bank has said that it carried out an affordability assessment and creditworthiness check when Miss C applied for her loan. I've reviewed the information it relied on before lending to Miss C. I must determine whether CCB completed reasonable and proportionate checks to satisfy itself that Miss C would be able to repay the monthly amounts in a sustainable way.

Miss C told CCB when she applied that she was employed and earned £43,000 a year which translated into take home pay of £2,400 each month. She had said she needed the funds to consolidate debt. I have seen that the parties' figures on Miss C's income coincide and so I do not think there's any dispute about her income.

Miss C says she took a bank loan of £22,295 in January 2023 with repayments of £605 a month (committed for 58 months) and was granted a credit card in April 2023 with a £5,300 limit. She says that her credit card was at its limit by June 2023. Miss C says that CCB would have seen this. Miss C says she had a bank credit card with a £2,950 credit limit, an overdraft on one of her current accounts (limit of £800) and a high street shop mail order account with a limit of £1,200.

Miss C says that she did not have enough to be able to pay her existing debts and expenditure and so she says CCB lent to her irresponsibly.

CCB has described how Miss C's application passed through a series of automated processes including an identity check, affordability, and creditworthiness checks. This report from CCB I've seen shows that there were no issues with arrears, insolvency, defaulted accounts, or County Court Judgments.

One part in the '*Affordability Components*' section I had asked to be explained to me by CCB. These figures were:

CCB Credit Commitments	£917.10
Expenditure	£826.86

MCB Credit Commitments	£1,019
Mortgage	£388
RVO Credit Commitments	£1,019

And I was told by CCB to disregard the two marked MCB and RVO.

CCB went on to explain:

*'Castle Community Bank outsources the processing and servicing of our loan accounts to a third-party supplier, ..., who also provide a similar service to two other firms....CCB has confirmed via the credit reference agencies that [Miss C's] expenditure is £826.86 per month and that she has a mortgage with a monthly repayment of £388. [Miss C] advised that she was borrowing to consolidate existing debts and CCB has calculated her revised expenditure after the granting of our loan and the repayment of her existing debt to be £917.10 per month.'*

CCB has also explained other elements of the credit search and automated processes document which included an entry that her monthly credit commitments were £310 and she'd not applied for any borrowing in the previous three months.

But, that same document also indicated to CCB Miss C's *'Existing Unsecured Debt to Annual Income'* was 80.23%. That is a high percentage and £310 a month on credit commitments is a relatively low monthly repayment figure, so these two elements do not fit together.

Added to which, there is another entry in the credit report research carried out for CCB that Miss C had opened £5,000 worth of credit in the previous three months. So, there are contradicting elements within that document, as well as a clear indication she had a high debt to income ratio.

All these elements ought to have been a prompt to look into Miss C's finances more thoroughly than relying on automated rules. The loan was for almost £16,000 including interest and over a four year term which is quite a long period to commit to the loan repayments.

I checked the 80% debt to annual income figure with CCB and it said that as Miss C *'...was borrowing to consolidate existing debt this figure would have remained unchanged as she was replacing debt most probably to obtain a better rate of interest.'*

So CCB has told me that her debt to income ratio would not likely have reduced after taking its loan.

To check this 80% figure for myself, I used Miss C's personal credit file to calculate all the outstanding unsecured credit balances she had in June 2023 which included, a bank loan, two credit cards and current account overdrafts and a flex account. All these came to £34,738 which is 80% of her gross salary of £43,000. So, I satisfied myself as to where this 80% figure had come from. And I agree that this figure was not likely to change after the CCB loan was approved. And I say that because using the £10,000 loan funds to reduce debt but then having a £16,000 (almost) loan to repay in its stead would unlikely alter the 80% figure.

So, for the loan essentially to leave Miss C in no better a position than she had been in before seems to be counter-intuitive to the reason for her applying for the loan which was to consolidate debt.

On CCB's figures it had calculated that after consolidating her debt with it and then paying for its loan she would have had to repay £2,132 each month (including her mortgage and the CCB expenditure figure of £827) which on its calculations it would have left Miss C with around £268 each month of her monthly income of £2,400.

I have explained earlier in this decision why I think that the finances ought to have been scrutinised more closely. One way to verify and look into Miss C's finances further would have been to ask for copies of records, other credit commitment agreements and details of all her household bills. Another and often more convenient method is to review some bank statements leading up to the application date.

So, to review what CCB may have seen if it had done further checks, I used Miss C's bank statement for the period 13 May to 13 June 2023.

I saw Miss C paid for council tax twice a month, paid for insurances, paid for three phones, paid for internet and a TV subscription, paid the DVLA, paid for gas and water, paid for petrol and food. And the £827 CCB had chosen to use was a satisfactory figure to cover all these outgoings. It would not have covered the childcare cost.

I recognised that Miss C had several 'buy-now-pay-later' transactions but those usually are temporary repayments by nature and not credit commitments I'd expect to be counted in a lender's regular credit commitment assessment. And I recognised that Miss C made a £200 refund payment on a child tax credit. But that would be a one-off matter and not something I'd expect a lender to know of or to count in its assessment.

The main details CCB would have seen is that Miss C was paying £605 each month towards a loan as well as other usual credit commitments such as credit cards. Plus, Miss C had another account with which she had a flex account and needed to fund that regularly as well. And Miss C had the mortgage of £388 a month about which CCB knew.

Therefore, I consider that CCB would have seen Miss C was already paying a significant amount more than the £310 a month it had in its credit report document. And more than the £917 a month it says it had calculated.

It would have obtained more details of the credit cards and the earlier loan she had been paying off. It would have recognised she had the other account which needed managing. And with all that information as well it would have had a more complete picture.

That fuller picture indicates that Miss C had needed a large bank loan for over £22,000 in January 2023, had applied for credit cards after that loan and then used the credit allowed almost immediately and in June 2023 was requiring further credit of £10,000 (plus interest) again.

These details together with the information CCB already knew, leads me to think that CCB ought to have realised she was overindebted, that her monthly salary was not going to easily cover all the existing payments plus the CCB loan even allowing for the 'consolidation' element. And over a four year period I think it would have been an unsustainable loan. I plan to uphold the complaint.

#### *Additional point raised by Miss C*

Miss C says that she wants to restructure the way she repays this debt.

My remit doesn't extend to assisting Miss C in future financial debt planning or debt management. I understand Miss C has sought, and is receiving, debt counselling and assistance from a known charity which specialises in this. And I can only recommend that any further advice is sought there.

And I do not accept that the capital sum she borrowed should be reduced or written off. Miss C received the full funds and used them and so they need to be repaid.

### **Putting things right**

The Community Bank should add up the total amount of money Miss C received because of having been given the loan. The repayments Miss C made should be deducted from this amount.

If this results in Miss C having paid more than she received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement)\*. And CCB should also remove all adverse information regarding this loan from Miss C's credit file. As Miss C is only one year into a four year loan I doubt that this part of the redress section applies but is here for completeness.

If any capital balance remains outstanding, then CCB should arrange an affordable and suitable payment plan with Miss C if one is not already in place, which I understand one is.

I make no direction in relation to the credit file if there's still an outstanding balance.

I've considered whether the relationship between Miss C and CCB might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed should be carried out for Miss C results in fair compensation for her in the circumstances of this complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

\*HM Revenue & Customs usually requires CCB to deduct tax from this interest. It should give Miss C a certificate showing how much tax it's deducted if she asks for one.

### **My Final decision**

My final decision is that I uphold the complaint and I direct that North Edinburgh and Castle Credit Union Limited t/a Castle Community Bank ("CCB") does as I have outlined in the *'putting things right'* section of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 5 September 2024

Rachael Williams  
**Ombudsman**