DRN-4793367

The complaint

Mr J is complaining about Progressive Money Limited because he says it lent irresponsibly by giving him a loan he couldn't afford.

What happened

In September 2018, Mr J took a loan with Progressive Money. He borrowed £10,000 over a term of five years, with a monthly repayment of £411. The loan included acceptance and administration fees totalling £1,390 and the repayment was based on an interest rate of 53% APR.

Progressive Money has said the stated purpose of the loan was debt consolidation and a car purchase. It's provided evidence to show £9,000 of the amount borrowed was used to repay existing loan and credit card debt.

Our investigator concluded the complaint should be upheld. She felt Progressive Money shouldn't have agreed to the loan based on Mr J's recent financial issues and her view that the monthly repayments were unaffordable.

Progressive Money didn't accept the investigator's assessment. In summary, it maintains the loan actually benefitted Mr J as it repaid much of his existing debt and reduced his monthly outgoings. While it acknowledged Mr J had shown previous signs of financial difficulty, it felt his circumstances had improved by the time it approved the loan.

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. 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 Mr J, Progressive 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 in respect of each lending decision are:

- Did Progressive Money complete reasonable and proportionate checks to establish Mr J 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 Progressive Money to carry out a proportionate and borrower-focused assessment of whether Mr J could afford the repayments. This assessment also had to consider whether the loan could be repaid sustainably. In practice this meant Progressive 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 him making payments, it had to consider the impact of the repayments on Mr J.

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 have been for a given application, including any indications of borrower vulnerability or foreseeable changes in future circumstances.

Progressive Money has described the information it gathered to assess whether Mr J's loan was affordable before it was approved. This included:

- a fact-finding interview to establish his circumstances and needs;
- three months of payslips to confirm his income;
- information obtained from a credit reference agency (CRA), giving details of his existing credit arrangements and any past issues with credit, including missed payments and defaults; and
- a verbal income and expenditure review, supported by recent bank statements.

Progressive Money maintains its affordability assessment was proportionate to the loan being given and demonstrated it was affordable.

After carefully reviewing the information Progressive Money obtained, I think there were factors that should have prompted it to carry out further checks before approving Mr J's loan and I don't agree the affordability assessment was reasonable and proportionate in the circumstances of this particular case.

In particular, I'm conscious Mr J was borrowing a large sum with a significant monthly payment accounting for over 20% of his monthly income. Also, the information Progressive Money did obtain showed several signs Mr J had struggled with his finances in recent months. This included the use of high-cost short-term lending, full use of a significant overdraft facility on his bank account, multiple cash withdrawals on a credit card and arrears on other commitments.

I believe the information suggests Mr J was having difficulty managing his finances. While Progressive Money did obtain one recent statement for his sole current account, I think a proportionate affordability assessment in this case would have reviewed his circumstances, particularly the conduct of that account, over a wider period of time.

To consider the information Progressive Money could reasonably have discovered with a reasonable and proportionate affordability assessment, we've obtained statements for Mr J's sole account for the three months prior to the loan application.

As our investigator pointed out, the statements do show Mr J took out three new short-term loans at the beginning of September, but I note Progressive Money has said it didn't see that information as the relevant statement wasn't issued before the loan was approved. Nonetheless, the statements do show that at the start of each month the account was overdrawn by more than the £1,500 limit and was consistently overdrawn throughout each month, with Mr J and paying interest of up to £20 each month as well as with other charges of up to £80. I think this indicates he was living beyond his means.

While the new loan helped to clear Mr J's existing loans and credit cards, some of the money wasn't used for this purpose - Progressive Money has said the rest was to be used for a car purchase - and his total debt therefore increased. Also, in the absence of any intention to close his credit card account when the balance was paid off, the total credit available to him increased. In addition, the loan didn't clear Mr J's overdraft. So, unless the loan meant he was left with additional disposable income that would allow him to pay down this facility, it was always likely he'd continue to be dependent on the overdraft, which is normally an expensive way to borrow and therefore not intended for long-term use.

The payslips obtained by Progressive Money show Mr J's average monthly earnings over the previous three months was £1,846. It also completed an expenditure assessment that concluded his key expenses, including 50% of the joint mortgage payment, totalled £1,165. This calculation didn't include repayments on the debt being paid off, but it also didn't include the costs associated with the debt that wasn't being paid off, most notably the overdraft on his current account.

Once the cost of the new loan was factored in, Progressive Money's calculations concluded Mr J had a disposable income of £270 per month. When other costs not taken into account are included, for example the amount of interest and charges being paid on his overdraft, the actual amount was considerably lower than this.

On balance, I think the evidence shows Mr J was already in financial difficulty and while the new loan allowed him to pay off some of his existing debt, the monthly repayment wasn't likely to remain sustainably affordable as Mr J wasn't left with sufficient disposable income to make any meaningful repayment towards his overdraft or to cover unexpected expenses that inevitably arise over time.

If Progressive Money had adequately assessed whether the loan repayments were affordable and sustainable, that is whether they were likely to remain affordable throughout the term of the loan, it's my view it shouldn't have lent to Mr J. It's for this reason that that I'm upholding his complaint.

Putting things right

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

Because I don't think Progressive Money should have lent to Mr J, I don't think it's fair for him to pay interest or charges on the amount borrowed. But he has had use of the money that was lent, so I think it's fair he repays the amount borrowed (without the addition of interest or charges).

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

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

- If this exceeds the £10,000 borrowed, any excess above £10,000 should be paid to him with simple interest at 8% per year from the date of each overpayment to the date of settlement.

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

- If the total of all Mr J's payments doesn't exceed the £10,000 borrowed, Progressive Money should arrange an affordable payment plan with him for the shortfall.

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

If Progressive Money no longer owns the debt, it should liaise with whoever does to ensure any payments Mr J has made since moving the account are factored into the calculation of the compensation that's due or the balance that remains outstanding.

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 Mr J's complaint. Subject to his acceptance, Progressive Money Limited should now put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 26 June 2024.

James Biles
Ombudsman