

The complaint

Mr G complains that North Edinburgh and Castle Credit Union Limited trading as Castle Community Bank lent irresponsibly when it approved a loan application he made.

What happened

The background to this complaint and my initial conclusions were set out in a provisional decision. I said:

On 17 June 2023, Mr G applied for a £5,000 loan over a 36 month term with Castle Community Bank. In his application, Mr G said he was employed with an income of £100,000 a year. Castle Community Bank carried out a credit search and used the credit reference agency to verify the income being paid into his bank account each month. Castle Community Bank wasn't able to verify Mr G's income level at £100,000 a year but found he was receiving around £3,000 a month into his bank account. Castle Community Bank also found Mr G had taken new borrowing totalling £7,930 in the previous three months and that he owed a total of around £31,000 to unsecured creditors with monthly repayments totalling £988. A mortgage with a monthly repayment of £864 was also found on Mr G's credit file.

Castle Community Bank applied its lending criteria and approved Mr G's loan of £5,000 plus interest of £2,853.60 over three years with a monthly repayments of £211.55. Mr G made his loan repayments until September 2023 when he started to make reduced payments. Mr G went on to make reduced payments of £20 a month to Castle Community Bank.

Earlier this year, Mr G complained that Castle Community Bank lent irresponsibly and it issued a final response. Castle Community Bank said it had carried out the relevant lending checks and didn't agree it lent irresponsibly. Castle Community Bank didn't uphold Mr G's complaint.

An investigator at this service looked at Mr G's complaint. They asked Mr G to provide bank statements for the months before his loan application was approved. Mr G provided bank statements for January, February, March and May 2023. The April 2023 bank statement wasn't provided. The investigator thought Castle Community Bank should've carried out a more comprehensive set of lending checks before approving Mr G's loan application. But the investigator said that because Mr G hadn't provided the April 2023 bank statement they weren't able to get a complete picture of his circumstances before the loan application was approved.

The investigator noted Mr G's income fluctuated and that he was receiving transfers of varying amounts from his wife to help cover bills. The investigator ultimately didn't uphold Mr G's complaint. Mr G asked to appeal and pointed out that whilst he'd given an income of £100,000 a year in his application, his basic pay was much lower and he was working on commission. Mr G said that Castle Community Bank was aware his income was substantially lower than the figure in the application and should've declined to proceed. As Mr G asked to appeal, his complaint has been passed to me to make a decision.

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. I've reached a different overall conclusion to the investigator. Based on the information I've seen so far, I haven't been persuaded that Castle Community Bank lent responsibly. I'll explain why.

Before agreeing to lend, the rules say Castle Community Bank had to complete reasonable and proportionate checks to ensure Mr G could afford to repay the debt in a sustainable way. These affordability checks needed to be focused on the borrower's circumstances. The nature of what's considered reasonable and proportionate will vary depending on various factors like:

- The amount of credit;*
- The total sum repayable and the size of regular repayments;*
- The duration of the agreement;*
- The costs of the credit; and*
- The consumer's individual circumstances.*

That means there's no set list of checks a lender must complete. But lenders are required to consider the above points when deciding what's reasonable and proportionate. Lenders may choose to verify a borrower's income or obtain a more detailed picture of their circumstances by reviewing bank statements for example. More information about how we consider irresponsible lending complaints can be found on our website.

I've looked at the lending data Castle Community Bank obtained in support of Mr G's income. Castle Community Bank has explained it attempted to verify Mr G's declared income of £100,000 a year but the results came back showing he was earning substantially less at around £3,000 a month. Castle Community Bank went on to base its lending assessment on that figure rather than the income Mr G declared. But I think that a disparity in the income figures at that level ought to have caused Castle Community Bank to consider carrying out better checks.

I also note that Castle Community Bank found Mr G had taken out a substantial level of new unsecured debts in the preceding three months. Castle Community Bank's data showed Mr G had taken out £7,930 in new loans in the previous three months. Mr G was making monthly repayments of nearly £1,000 to his existing unsecured creditors already, and whilst the debt to income ratio based on his declared income was around 31%, when compared against his actual income (as verified by Castle Community Bank) it was much higher. Taking all the above together, I think it would've been reasonable for Castle Community Bank to take additional steps before approving Mr G's loan.

There were a range of options available to Castle Community Bank, one of which was to ask Mr G for his bank statements for the preceding months to get a clearer picture of his circumstances. Mr G has sent us several bank statements (albeit with April 2023's missing) so I've looked at the information they contain. I can see that Mr G's income varies considerably each month. Mr G was paid £3,911 in January 2023, £2,536 in February 2023, £1,847 in March 2023 and £3,013 in May 2023. I don't know what Mr G was paid in April 2023. Mr G's told us he has a lower basic pay that is made up by commission each month and that's demonstrated by his bank statements.

I've also looked at Mr G's outgoings for his existing debts, housing costs, regular bills and other costs that are generally collected by direct debit or other automated payments from his bank account. Mr G had outgoings of £3,014 in January 2023, £3,201 in February 2023, £3,552 in March 2023 and £3,237 in May 2023. The above figures don't take into account

other normal spending on items like fuel, food or other everyday living expenses. So Mr G's full outgoings were actually higher than the figures I've noted here when taking that into account. But even taking Mr G's income as being £3,000 a month as Castle Community Bank verified, I think it's clear he was already at or over capacity in terms of his outgoings.

I can see that Mr G received ad hoc transfers from his wife during this period that were used to help cover bills. But the arrangement doesn't appear to have been regular and we don't know about Mr G's wife's circumstances or if she'd be able to make contributions at the same levels throughout the term of the Castle Community Bank loan.

A concern I have is the amount of new credit Mr G obtained in the 12 months before he applied to Castle Community Bank. I'm aware Mr G obtained a loan for £12,000 in October 2022 with monthly repayments of £290.01 that can be seen on his bank statements. I can also see that Castle Community Bank found Mr G had taken new unsecured borrowing of £7,930 in the preceding three months before his application was made. And Mr G's bank statement that goes up to 5 June 2023 (so would've been available to Castle Community Bank on 17 June 2023) shows he took another new loan of £3,500. That means in the year before Mr G's application was made, he took out new unsecured loans totalling around £23,430. In my view, that shows Mr G was borrowing at an unsustainable rate and that he was using credit to make ends meet. For instance, Mr G's March 2023 bank statement shows his direct debit commitments were only met because he took a new loan of £5,000.

Based on the bank statements I've seen along with the other supporting information on file, I think Castle Community Bank should've done better checks before approving Mr G's loan application. And I think that if it had, Castle Community Bank would've found Mr G's income was lower than the figure it used, his outgoings were considerably higher and that he was borrowing at an unsustainable rate. In those circumstances, I think it's more likely than not that Castle Community Bank would've taken the decision to decline Mr G's loan application. I haven't been persuaded that Castle Community bank lent responsibly to Mr G. As a result, I intend to tell Castle Community Bank to refund all interest, fees and charges applied to Mr G's loan from inception and work with him to agree an affordable repayment plan.

Mr G's told us he thinks the disparity between the income figure noted in his application and used by Castle Community Bank when assessing his circumstances means the loan balance should be written off. But I don't agree that's fair as Mr G did have the benefit of the funds he borrowed from Castle Community Bank. I'm satisfied that directing Castle Community Bank to refund the interest, fees and charges applied represents a fair way to resolve Mr G's complaint.

I've considered whether the business acted unfairly or unreasonably in any other way including whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed above results in fair compensation for Mr G in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

I invited both parties to respond with any additional information they wanted me to consider before I made my final decision. Mr G responded to confirm he is willing to accept. We didn't hear back from Castle Community Bank.

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.

As no new information has been provided for me to consider I see no reason to change the

conclusions I reached in my provisional decision. I still think Mr G's complaint should be upheld, for the same reasons.

My final decision

My decision is that I uphold Mr G's complaint and direct North Edinburgh and Castle Credit Union Limited trading as Castle Community Bank to settle as follows:

Add up the total amount of money Mr G received as a result of having been given the loan (ensuring interest isn't applied). The repayments Mr G has made should be deducted from this amount.

a) If this results in Mr G having paid more than they received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). Castle Community Bank should also remove any adverse information recorded on Mr G's credit file. †

b) If any capital balance remains outstanding, then Castle Community Bank should arrange an affordable and suitable payment plan with Mr G. Castle Community Bank should also remove any adverse information recorded on Mr G's credit file about the loan once the balance has been repaid in full.

† HM Revenue & Customs requires Castle Community Bank to take off tax from this interest. Castle Community Bank must give Mr G a certificate showing how much tax it's taken off if they ask for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 7 February 2025.

Marco Manente
Ombudsman