

The complaint

Mr S complains that Pennyburn Credit Union Limited (PCUL) didn't tell him it would carry out a credit search when he applied for a loan. Mr S also complains that PCUL required him to submit a GDPR request in writing rather than accepting it verbally.

What happened

In April 2024 Mr S applied for a loan with PCUL. Mr S completed the application online and has told us that PCUL's application didn't advise it would carry out a credit search and he wasn't asked for consent for it to do so. The application was declined by PCUL.

Mr S has explained that he visited a branch of PCUL a short time later and, amongst other things, asked staff to raise a GDPR request to see his personal information. Mr S says he tried to raise the request verbally but was told by branch staff it had to be submitted in writing and was given a form to complete. Mr S says he didn't complete the form in branch and returned home to wait and see whether his verbal request would be complied with. After around a month, when no response was received, Mr S says he submitted the form to PCUL.

Mr S complained to PCUL and it issued a final response on 20 August 2024. PCUL said branch staff had provided a Subject Rights Request form and suggested Mr S complete it whilst there. PCUL explained the purpose of the form was to ensure it had an accurate idea of the information Mr S required. PCUL also said that all staff are required to advise a credit search will be completed during loan applications and said reminders would be given.

An investigator at this service looked at Mr S' complaint. The investigator asked PCUL to provide evidence of whether Mr S was told about the credit search during the application. PCUL said Mr S' application was made online and included a notice that confirmed his credit file would be checked and provided a screenshot from its website. The investigator wasn't persuaded PCUL had failed to notify Mr S it would check his credit file when he applied for a loan. And the investigator didn't think PCUL had treated Mr S unfairly by asking him to complete a form when raising his GDPR request.

Mr S asked to appeal and provided a message from PCUL that confirmed it had recently changed its website. Mr S said that while PCUL's website may now provide notice that it will carry out a credit search, it didn't when he applied for the loan. Mr S also said PCUL had misled the investigator as he'd asked for all the information about him it held so there was no need for a form to be completed. As Mr S asked to appeal, his complaint has been passed to me to make a decision.

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.

I'm aware I've summarised the events surrounding this complaint in less detail than the parties involved. No discourtesy is intended by my approach which reflects the informal nature of this service. I want to assure all parties I've read and considered everything on file.

I'm satisfied I don't need to comment on every point raised to fairly reach my decision. And if I don't comment on something, it's not because I haven't considered it. It's because I've focused on what I think are the key issues. My approach is in line with the rules we operate under.

Mr S has told us that when he applied for his loan in April 2024 he wasn't told that PCUL would carry out a credit search. But PCUL says that information is provided at the start of the application process when being completed online. I can see that PCUL has sent us a screenshot from its application system that says *"Pennyburn Credit Union use Credit Reference Agencies as part of their loan application process."* The information is given on the opening screen of the application process. But Mr S says that the website has changed since his application and that information wasn't shown when he applied online.

I've looked at the screenshots Mr S has provided us showing the complaint he made to PCUL. In one, Mr S says he's aware information about credit searches is included in PCUL's general privacy policy and said it advised *"...we may use credit scoring techniques"*. So even accepting Mr S' claim that PCUL's website may have been updated, it does appear to me that he was aware that credit scoring could be carried out. Mr S' comments also suggest he'd read PCUL's general privacy policy. I think it's fair to note the general privacy policy also says it may use personal information to conduct credit searches as well.

I've looked at the Information Commissioner's Office's guidance (available on its website) concerning whether consumers have to provide specific consent for a credit search to be completed. It says *"Data protection law doesn't actually require these organisations to have gained your consent before they can carry out a search of your credit file as long as they have a lawful basis for doing so and you have been told that this search is going to take place. If you have taken out a loan or credit card you will probably find this in the original terms and conditions you signed."* Having read the industry guidance, I'm satisfied that PCUL was obliged to ensure all potential borrowers, including Mr S, were notified that a credit search could be completed as part of an application process but didn't need to seek specific consent when it did so.

PCUL has forwarded a redacted copy of a previous loan application Mr S made in January 2024. That application was completed directly with PCUL, not online. The application form is signed by Mr S and includes the following information in the declaration:

"I acknowledge Pennyburn Credit Union Ltd use Credit Reference Agencies as part of their loan application process. Further information on the credit union's use of Credit Reference Agencies can be found under the "Legitimate interests" section of our Privacy Policy."

Whilst I understand this was included in a previous application Mr S made, I think it goes some way to demonstrate that informing customers about the use of credit reference agencies when applying for credit forms a standard and longstanding part of the application process. And it also shows that Mr S has previously proceeded made a loan application in similar circumstances that was subject to a credit search, indicating he was aware of the process.

Mr S has explained that when he spoke with staff on the phone at PCUL to confirm the application information they didn't mention the credit search. But PCUL has explained that as Mr S applied online that information was provided as part of the standard process so didn't need to be confirmed when it spoke with him. I'm satisfied that's a reasonable approach.

Where information is disputed by the parties involved I'll base my on the balance of probabilities. That is, what I consider most likely to have occurred based on all the available

evidence. In this case, I'm satisfied it's more likely than not that PCUL did confirm it would carry out a credit search as part of the loan application when Mr S applied online. I accept Mr S may not recall seeing that information, but I haven't been persuaded that PCUL failed to provide the necessary notice or that it acted unfairly by carrying out a credit search when he applied for a loan.

I agree with Mr S that there's no requirement for PCUL to ask him to complete a GDPR request in writing. But I can see PCUL has confirmed that the reason it asked Mr S to complete the form was so it could ensure it was responding with the right information. Mr S says that he left the branch with the form, intending to wait to see whether PCUL would comply with his verbal request. But staff had already asked Mr S to complete the form, so I don't think there was an expectation it would respond before receiving that back.

Whilst I agree the rules say GDPR requests can be made verbally, the Financial Ombudsman Service doesn't regulate how GDPR requests are handled – that's the Information Commissioner's Office. And whilst I agree that PCUL could have taken Mr S' request verbally, I haven't found evidence he was unreasonably inconvenienced by its request he complete a form. I'm satisfied Mr S could have completed the form either in branch or shortly after returning home and returned it to obtain the GDPR information he wanted. I'm sorry to disappoint Mr S but I haven't been persuaded that there are grounds to uphold his complaint or award compensation on the basis PCUL asked him to complete a GDPR request form.

My final decision

For the reasons I've given above, I haven't been persuaded to uphold Mr S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 20 February 2025.

Marco Manente
Ombudsman