

Complaint

Mr S has complained about a personal loan which he says Creation Consumer Finance Ltd ("Creation") irresponsibly provided to him. He says that the repayments to the loan were unaffordable and so it shouldn't have been provided to him.

Background

Creation provided Mr S with a loan for £8,000.00 in September 2019. This loan had an APR of 22.9% and the total amount to be repaid of £11,848.80, which included interest fees and charges of £3,848.80, was due to be repaid in 48 monthly instalments of £246.85. The statement of account shows that Mr S settled the loan early in November 2022.

One of our investigators reviewed what Mr S and Creation had told us. And she didn't think that Creation had acted unfairly when deciding to provide this loan to Mr S and so didn't uphold the complaint.

Mr S disagreed with our investigator's assessment and asked for an ombudsman to review the complaint.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Mr S' complaint.

Creation needed to make sure that it didn't lend irresponsibly. In practice, what this means is Creation needed to carry out proportionate checks to be able to understand whether Mr S could afford to repay before providing this loan.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

Creation says it agreed to Mr S' application after he provided details of his monthly income and some information on his expenditure. It says it cross-checked this against information on a credit search it carried out. The credit checks showed Mr S had some existing debts in the form of credit cards and a loan but Mr S' indebtedness wasn't excessive in comparison to his declared income.

In Creation's view all of the information it gathered showed that Mr S could afford to make the repayments he was committing to. On the other hand, Mr S has said he couldn't afford the repayments to this loan. I've carefully thought about what Mr S and Creation have said.

The first thing for me to say is that Creation has provided the details of its credit searches. Creation having carried out credit checks shows that it didn't simply rely on what Mr S said and that it took some steps to check at least some of the information he provided in his application.

Creation searches appear to show that Mr S' existing commitments were relatively well maintained. For example, there was nothing to indicate that Mr S had any significant adverse information – such as defaulted accounts or county court judgments – recorded against him. Crucially, according to the credit searches, Mr S' debt total at the time of the application wasn't excessive.

Nonetheless, while I can see that Creation asked Mr S about his employment and what he earned each month, I can't see that it took steps to cross check what he'd declared. In reaching my conclusions, I note that many lenders took steps to establish a customer's income electronically. Therefore, the fact that Creation didn't ask Mr S for payslips or other proof of income, does not in itself mean that it didn't take steps to establish what Mr S received each month.

However, Creation hasn't said and neither has it provided anything to support it having done this. And in circumstances where Mr S was being lent £8,000.00, I'm simply not in a position to agree that Creation carried out proportionate checks in circumstances where it can't show me that it had taken some steps to cross-check how much Mr S actually received each month. As this is the case, I've not been satisfied that Creation did complete fair, reasonable and proportionate affordability checks before providing this loan to Mr S.

In order to do assess whether Creation carrying out proportionate checks would have made a difference to its decision to lend, I've looked at the bank statements Mr S has provided us with. To be clear, I've not considered these bank statements on the basis that Creation should have obtained them from Mr S before lending to him.

Indeed, there was and still remains no requirement for a lender to obtain bank statements from a customer, prior to lending. It is up to a lender to determine how it assesses income and expenditure. The reason I've considered the bank statements Mr S has provided is because they provide the simplest access to the information that I now need in order to determine what proportionate checks are likely to have shown, at this stage.

As I've explained, the main thing that Creation needed to find out about Mr S was how much he received in funds each month. Having looked through the statements, I can see that Mr S has provided us with statements for the account that his income was being paid into and which he was receiving other regular credits.

These bank statements also appear to show that when Mr S' committed regular living expenses are combined with his payments to his credit commitments and then deducted from the total amount he was receiving, he did have sufficient funds left over to make the payments to this loan.

I appreciate that Mr S says that it is unreasonable to include some of the credits he was receiving into his bank account as these weren't guaranteed. But Mr S was receiving these funds into his account at the time and they appear to have been paid to him to contribute to the household expenditure. In these circumstances, I don't see how it would be fair and

reasonable not to include the payments Mr S was receiving, yet still include the full amount of his monthly expenditure.

Furthermore, it is also extremely rare for funds to be 'guaranteed' for the entire term of a loan. For example, a consumer won't be guaranteed to remain in the same job, or with the same employer for the entire term of a loan. So if I took Mr S' argument to its logical conclusion and only considered funds that he was absolutely guaranteed to receive over the loan term, I'd have to discount his salary as well. I say this as there was no guarantee he'd be employed with the same employer for the entire 48 months. Clearly, adopting such an approach would be absurd and irrational and not in keeping with what's fair and reasonable.

Equally, it's only fair and reasonable for me to uphold a complaint in circumstances where a customer lost out because of something that a firm did something wrong. Given the information provided now appears to indicate that the loan payments were affordable, I can't reasonably say that Creation carrying out further checks would have shown it that it shouldn't have lent to Mr S in this instance.

In reaching my conclusions, I've also considered whether the lending relationship between Creation and Mr S might have been unfair to Mr S under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Creation irresponsibly lent to Mr S or otherwise treated him unfairly. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here.

Overall and having considered everything, I've not been persuaded that Creation doing more would have shown it that it shouldn't have lent to Mr S. And as this is the case, I'm not upholding Mr S' complaint. I appreciate this is likely to be very disappointing for Mr S. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding 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 13 June 2025.

Jeshen Narayanan
Ombudsman