DRN-5589749

Financial Ombudsman Service

The complaint

Mrs F says Fairscore Ltd, trading as Updraft, irresponsibly lent to her.

What happened

Mrs F took out a loan for £3,500 over 48 months from Updraft on 6 September 2024. The monthly repayments were £135.45 and the total repayable was £6,414.37. She says she should not have been approved given her financial situation. She was already struggling to manage her debts and this loan kept her in a cycle of debt.

Updraft says it carried out proportionate checks that showed Mrs F could afford the loan.

Our investigator agreed and did not uphold Mrs F's complaint.

Mrs F disagreed with this assessment and asked for an ombudsman's review. She said, in summary, the checks were not proportionate and the loan was unaffordable. She was persistently reliant on her overdraft which was at its limit of £4,940 every month. This loan would not even clear that.

She had been taking out loans to repay other loans since 2017. She was prioritising covering the repayment commitments on existing borrowing/debt rather than defaulting on the credit accounts as the nature of her job means she cannot have CCJs or adverse judgments registered against her. The fact she was managing to make her repayments was not an indicator that she was financially stable, she was heavily reliant on new borrowing to manage existing debt and was unable to pay her fair share of household bills.

I reached a different conclusion to the investigator so I issued a provisional decision. An extract follows and forms part of this final decision. I asked both parties to send their responses by 30 May 2025.

Extract from my provisional decision

Updraft has provided evidence to show that it asked for some information from Mrs F before giving the loan. It asked for her monthly income, her employment status and her housing costs. It used open banking data to verify these figures, and it used national statistics to make an assumption about her living costs. It carried out a credit check to understand her credit history and her existing credit commitments. Based on the results of these checks Updraft thought it was fair to lend to Mrs F as she had a monthly disposable income of £267.

I think these checks were proportionate given the term and value of the loan but I do not think Updraft made a fair lending decision based on the information it gathered. I'll explain why.

Updraft used a verified net monthly income of £3,430.85 for Mrs F in its affordability assessment. It learnt her existing credit commitments were £2,243.85. This did not include any cost for her overdraft facility that it could see she was using. This means Mrs F was already spending 66% of her income to manage her unsecured debt. And its checks showed *that her debt had increased significantly in the previous two years – from around £40,000 in mid-2022 to almost £60,000. I this ought to have concerned Updraft and it ought to have realised there was a high risk that Mrs F would be unable to sustainably repay the loan – that is without borrowing again to repay, or suffering some other severe financial consequence.*

I note the loan purpose was debt consolidation, but it would not allow Mrs F to clear enough debt such that her monthly spend on credit would become sustainable. Indeed, it was insufficient to even clear her overdraft that she was persistently reliant on from payday to month end.

It follows I find Updraft was wrong to lend to Mrs F.

Mrs F accepted my provisional decision. Updraft did not and made the following points:

- its checks, as the ombudsman agreed, were reasonable and proportionate and showed a positive affordability figure for Mrs F
- this was even when it did not factor in any reduction in credit commitments to reflect the planned consolidation
- it is a 'careful consolidation' lender, only offering new customers a loan that will start their consolidation journey to see how that is managed
- Mrs F did not indicate she intended to pay off her overdraft when she applied, she selected 'other loans' so it's not relevant that the loan would not have cleared her overdraft – and information this service has seen cannot be used to retrospectively review a lending decision when we have agreed Updraft's checks were proportionate
- There is no fixed regulatory threshold for credit repayments as a percentage of income, and Mrs F credit check showed no recent arrears, defaults, or other signs of distress. It was reasonable to conclude Mrs F was managing her credit in a sustainable way.
- Its decision to lend was fair based on the evidence at the time. It cannot be held responsible for what Mrs F may have done/not done after she received the proceeds of the loan.

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.

We've set out our general approach to complaints about unaffordable/irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website.

I have thought carefully about Updraft's response but it does not change my conclusion. I'll explain why.

Updraft's checks showed that Mrs F's debt level had increased significantly in the last two years – from around £40,000 to £60,000. And whilst there is no set regulatory level that repayments as a percentage of income should not exceed, I would expect Updraft, as a responsible lender to think that 66% of income creates a high-risk of future financial difficulties.

Updraft's defence of it lending decision focuses on the pounds and pence affordability, but as it know the regulations require that it assesses whether repayments will be sustainable over the term of the loan, not just affordable at the point of application. In the circumstances of Mrs F's application I cannot agree it had the assurances it needed that lending to Mrs F would not cause her to borrow to repay or to suffer some adverse financial consequence.

Indeed, it argues Mrs F did not intend to clear her overdraft (it was helpful it provided the information about the purpose options Mrs F had at application). But this means she would likely still be using her overdraft facility, so in essence she could be borrowing to repay either this – or other debts.

I understand Updraft's argument that it offers consolidation in stages, and indeed its assertion that 'The FOS recognises that consolidation can be a positive step if affordability is properly assessed'. But that must include the assessing the sustainability. The critical point is that it wasn't enough for Updraft to simply think about the likelihood of it getting its money back. It had to consider the impact of the loan repayments on Mrs F in order to avoid causing her any foreseeable financial harm.

With the level of unsecured debt she was already repaying relative to her net monthly income I cannot see it did that. The debt profile it saw for Mrs F showed a 50% increase in unsecured debt over the previous 24 months. She had applied for five new loans during 2023 and the value of this loan relative to her total unsecured debt could not improve her position such that her monthly commitments relative to her income no longer presented a high-risk of financial harm.

Finally, to be clear, whilst this service has had sight of bank statements and therefore the knowledge of Mrs F's persistent reliance on an overdraft facility (not just that she was using it at the time she applied) this was not shared as evidence that fed into the decision to uphold Mrs F's complaint, rather as a contextual observation. The finding that the lending decision was unfair was wholly made based on the data Updraft used at the point of sale.

It follows I remain satisfied that it was wrong for Updraft to lend to Mrs F.

Putting things rights

I think it's fair and reasonable for Mrs F to repay the capital that she borrowed, because she had the benefit of that money. But she has paid interest and charges on a loan that shouldn't have been provided to her. Updraft must put this right.

It should:

• Refund all interest and charges Mrs F paid on her loan and remove all future interest and charges.
• If reworking Mrs F's loan account in this way results in her having effectively made payments above the original capital borrowed, then Updraft should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement*.
• If reworking Mrs F's loan account results in there being an outstanding capital balance Updraft must try to agree an affordable payment plan with Mrs F.
• Remove any adverse information recorded on Mrs F's credit file in relation to the loan once any outstanding capital balance has been repaid.

*HM Revenue & Customs requires Updraft to deduct tax from this interest. Updraft should give Mrs F a certificate showing how much tax it's deducted, if she asks for one.

I also considered whether the relationship might have been unfair under Section140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed above results in fair compensation for Mrs F in the circumstances of her complaint. I'm satisfied, based on what I’ve seen, that no additional award would be appropriate in this case.

My final decision

I am upholding Mrs F’s complaint. Fairscore Ltd, trading as Updraft, must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs F to accept or reject my decision before 26 June 2025.

Rebecca Connelley
Ombudsman