

complaint

Ms C complains Amigo Loans Ltd irresponsibly lent to her. She says the loan she was approved for was unaffordable to her. She says this caused her financial detriment as she paid additional interest and charges.

background

Ms C took out a loan with Amigo in October 2017 for a total of £2,500. This was to be repaid over 60 monthly instalments of £98.81. Ms C says at the time the loan was approved she was in financial difficulties. She says had Amigo completed reasonable and proportionate checks it would've realised the loan was unaffordable to her.

Amigo says it lent responsibly to Ms C. It says it completed proportionate checks which included an income and expenditure assessment (which was compared to the national average) and a credit file check. Amigo says these checks showed the loan was affordable, and therefore its decision to lend was fair.

Our adjudicator looked into the complaint and upheld it. He felt Amigo hadn't conducted reasonable and proportionate checks. He argued that had Amigo done this it would've seen the loan was unaffordable to Ms C. He highlighted further checks – such as looking through bank statements – would've shown Ms C was making payments to debt collectors, as well as relying on family members for help paying essential outgoings. Amigo disagreed with the assessment and asked for a final decision.

my findings

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'm upholding this complaint.

We've set out our approach to complaints about irresponsible and unaffordable lending on our website. And I've used this approach to help me decide Ms C's complaint.

Amigo needed to carry out reasonable and proportionate checks to be able to understand if any lending was affordable to Ms C. The relevant rules don't set out which specific checks it has to complete for them to be reasonable and proportionate. But relevant checks could include things such as a customer's income (over the full term of the loan), and their outgoing expenses. These checks should also be reasonable and proportionate to the amount of credit being provided including the total amount of credit, amount of repayments and total length of the term.

As Amigo gave Ms C a loan that was to be repaid in instalments, the checks which it conducted had to provide enough information for it to be able to decide if Ms C could afford the monthly payments when they became due for the duration of the intended term. And even if reasonable and proportionate checks have been completed, the lender still has an obligation to make sure it doesn't lend irresponsibly to a borrower.

Amigo says it completed an income and expenditure assessment on Ms C, which included comparing her declared expenses against the national average. It says it also completed a credit file check on her before deciding to lend. It says after completing these checks it was satisfied Ms C had enough disposable income to meet the monthly repayments of £98.81.

I've considered what Amigo has said about the affordability of the loan based on the checks it completed, but ultimately, I disagree with its decision to lend. As I've explained above it isn't enough for Amigo to just complete checks, it still needs to consider carefully the information it is supplied by a borrower before deciding to lend.

Having looked through the information provided I'm not persuaded Amigo's checks went far enough in this instance. I appreciate Amigo says it checked Ms C's credit file and compared Ms C's declared income and expenditure against the national average, but I'm not satisfied that was proportionate enough in this case. Ms C's credit file shows a number of historic defaults and shows that she had outstanding credit commitments. Considering this, I don't think it is fair for Amigo to compare to the national average, because in my opinion the information on her credit file suggested that these averages didn't reflect her circumstances. This means it wasn't proportionate for Amigo to rely on these checks alone before deciding to lend.

Instead, I believe Amigo should've conducted more thorough checks to understand if Ms C's income and expenditure was enough to meet this ongoing commitment. It could have done this by obtaining copies of Ms C's bank statements. Had it done this I'm persuaded Amigo would've been in a better position to understand Ms C's financial situation before it decided to lend to her.

I've reviewed Ms C's bank statements from around the time of this loan. Looking through these statements it is clear Ms C is in a poor financial position. Ms C's only income was in the form of benefit payments from a number of different government departments. There are payments being made to debt collectors which demonstrates Ms C may've had issues with credit repayment in the past. There are also money transfers from family members which are being used to help meet Ms C's outgoings.

Having reviewed this information, I'm satisfied Ms C would've always had difficulties meeting the ongoing monthly payments of this loan. And I'm satisfied on balance, had Amigo completed further checks, it would've realised the loan was unaffordable to Ms C and decided not to lend to her.

So on this basis, I'm satisfied this complaint should be upheld. This means Ms C should only have to pay back the money she has borrowed from Amigo. This means Amigo will need to refund the interest and charges Ms C may've paid so far.

my final decision

My final decision is that I uphold Ms C's complaint.

I require Amigo Loans Ltd to:

- Remove any interest and charges applied to Ms C's account from when it was opened;
- Treat any payments that Ms C has made as a reduction of the principle amount;
- If this results in Ms C having paid more than what she was initially lent, then any extra should be treated as an overpayment and refunded to Miss C plus 8% simple interest on this amount from date of payment to date of settlement†;

- If an outstanding balance remains on Ms C's account after all adjustments have been made, then Amigo Loans Ltd needs to come to suitable repayment plan with Ms C to pay off the remaining amount;
- Remove any adverse information on Ms C's credit file in relation to this loan.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 7 May 2020.

Tom Whittington
ombudsman

†HM Revenue & Customs requires Amigo Loans Ltd to take off tax from this interest. Amigo Loans Ltd must give Ms C a certificate showing how much tax it's taken off if she asks for one.