

complaint

Miss B complains that a loan she took out with Minicredit that was transferred to Opus Limited (Opus), when Minicredit went into administration was irresponsibly lent and that the charges and interest that have accrued should be refunded to her.

background

Miss B took out a loan for £150 with Minicredit in September 2013. Shortly afterwards she entered into a debt management plan (DMP) with a debt charity who took over payments on all of her debts. Minicredit was told of the DMP on 29 November 2013 but they wouldn't deal with the debt management charity and they passed Miss B's debt to a collection company (Opus) who continued to apply interest and charges. In the meantime Miss B assumed that Minicredit had entered into the DMP and she didn't make any payments to reduce her debt to them. When Miss B came out of DMP she realised that charges and interest of over £200 had accumulated. The debt currently stands at £417.

Miss B says the initial loan was irresponsible as the business hadn't taken account of the financial difficulties she was facing. She also says that charges and interest shouldn't have accrued.

She wasn't able to resolve the issue with Opus so she referred her complaint to this service. Our adjudicator didn't think the loan had been made irresponsibly but she did think that once Minicredit had been made aware of Miss B's financial difficulties they should have stopped charging interest and making charges for late payments. So she thought these should be repaid. But there were some charges that had been made to the account before they knew of Miss B's problems and she thought these had been correctly applied.

Opus agreed with the adjudicator's opinion but Miss B didn't. She disputed the value of the loan she had taken saying it was less than had been suggested and she didn't understand where the charges our adjudicator said should be made, had come from. So she asked for a decision by an ombudsman.

my findings

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

I know it's not quite what Miss B wants to hear but I agree with the adjudicator's opinion and for similar reasons. I'll explain why.

was the loan made irresponsibly?

The main guidance that Minicredit needed to bear in mind was the Office of Fair Trading Guide to Irresponsible lending.

They had a responsibility to assess whether the loan they made to Miss B was affordable. The methods they used to establish affordability were for them to decide but the practices and procedures they used had to be effective. And the depth of their analysis could be proportionate to the amount of money being requested.

Opus has provided the information that Minicredit would have used. I can see that they took account of Miss B's income and expenditure. They established she had a disposable income of £500 per month and that she had no County Court judgements against her and they also performed a credit check to establish her creditworthiness.

I think this was a reasonable approach and likely to give them a good picture of Miss B's ability to repay the loan. The loan was for £150 and the term was a month so it's reasonable to suggest Miss B could have used her £500 disposable income to satisfy her debt.

So I don't think the loan was made irresponsibly.

the loan, charges and interest

Miss B questions the size of the loan she took out. She says it was £130.50 and opus say it was £150. The Pre-Contract Credit Information Miss B was given when she set up the loan explains that a *Drawdown fee* of £19.50 applies. It says that this fee is:

"deducted from any amount drawn down before transfer to you..."

So this fee was removed from the £150 loan before Miss B received it and she only received £130.50. I think this explains the discrepancy Miss B has raised but I don't think Minicredit did anything wrong. They simply applied the terms of the agreement.

The other costs referred to in the Pre Contract Credit Information are the ones that Minicredit took from Miss B's account, in line with their agreement, before they became aware of the DMP. These are a £40 penalty fee, a £5 attempt fee and a £50 debt expense.

The penalty fee consists of two £20 default charges where payment wasn't received. The attempt fee is the charge made for the subsequent failed collection attempt. And the debt expense was charged because payments weren't received after 30 days.

And as Minicredit weren't aware of Miss B's position I think these charges were correctly made in line with the agreement they had with her.

But once Minicredit became aware of Miss B's financial difficulties I would have expected them to be sympathetic and to have assisted. I agree with the adjudicator that we would normally expect them to have stopped charging interest and making charges on missed payments.

The adjudicator has helpfully set out what the adjusted debt should look like after any interest and associated charges have been removed. And I think it's fair and reasonable to ask Opus to amend Miss B's account in line with her recommendation.

my final decision

For the reasons I've given above I uphold this complaint in part and order Opus Limited to ensure that the balance payable on Miss B's account is £256.90.

For clarity this figure assumes that Miss B's £70 payment to her account has been made and that no further payments to the account have been received since our adjudicator provided her view on this complaint. If any further payments have been made then these will obviously reduce that account balance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 19 February 2018.

Phil McMahon
ombudsman