

## **complaint**

Mr V complains about a loan provided to him by Hitachi Capital (UK) PLC, trading as Hitachi Capital Consumer Finance ("HCCF"). He said that the loan was unaffordable, and that HCCF had failed to undertake a responsible assessment of his creditworthiness. He would like the loan written off.

## **background**

Mr V took out a loan of £13,000 with HCCF in May 2013 for a five year term. The application for the loan was made online, and only basic details were obtained from Mr V as to his income, employment and bank details. But, at the time of application, Mr V was suffering financial difficulties. He was unwell and gambling heavily. He had taken out four loans totalling £38,000 in the previous three months and was using the money for gambling purposes. He also had a mortgage and owed £20,000 on credit cards. His income only just covered the repayments on the five loans. Mr V said that HCCF was irresponsible in providing the loan to him. He considered that HCCF had failed to take reasonable steps to assess his likely ability to meet repayments in a sustainable manner, and that it had failed to adequately assess his creditworthiness. As Mr V had used the loan for gambling and lost all its proceeds, he asked that the full amount of the loan be written off. HCCF believes it made sufficient checks when assessing Mr V's circumstances.

The adjudicator concluded that the loan provided by HCCF was unaffordable, and based on the information provided. HCCF did not undertake a sufficient lending assessment. He said that Mr V's total outgoings towards credit when the loan was granted would have been over 80 per cent of his income. Moreover, Mr V also had a joint mortgage at the time of the lending, as well as having other expenditure. But, he also said that he had to take account of Mr V's own responsibility, and that it was reasonable for Mr V to pay back the capital he had borrowed, as he had received the loan money for the use of his own choosing.

He recommended that HCCF should:-

- remove any interest or charges added to the loan;
- rework the loan with the remaining balance set up in an interest free account;
- arrange a positive and sympathetic repayment plan with Mr V; and
- apply all loan repayments made by Mr V towards the capital borrowed only, and not towards any interest or charges.

HCCF disagreed and responded to say, in summary, that Mr V had knowingly obtained credit that he could not afford, and had then gambled and lost the amount of the loans that he had borrowed. Mr V's application showed his income as £15,000 and HCCF's loan monthly payments were £276.42. As part of the application process, HCCF undertook two Credit Reference Agency searches to check Mr V's financial position and used the available affordability module. It had no reason to believe that Mr V was unable to repay the loan. It said that his income was deemed sufficient to repay the requested loan, based upon the information provided at application and the Credit Reference Agency information. It did not consider that the loan should be interest free, but said that it would not add additional interest or fees to the loan. It also had a team that would work with Mr V to agree a suitable repayment plan.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

At the time of Mr V's loan application, HCCF was required by the Office of Fair Trading's ("OFT") guidance on irresponsible lending to undertake a reasonable assessment of affordability. It was obliged to consider sufficient information to be able to reasonably assess a borrower's likely ability to be able to meet repayments in a sustainable manner without the borrower incurring (further) financial difficulties and/or experiencing adverse consequences. The guidance sets out a number of things that a lender may wish to consider when assessing affordability.

I have considered the checks that HCCF made when it first agreed to Mr V's loan, but I am not persuaded that they were sufficient to demonstrate that the loan was affordable. HCCF said that its lending decision to Mr V was based on his credit score and an automatic system acceptance. I have seen the limited information required by the loan application, and can see that Mr V's annual income of £15,000 was provided. But, no information was requested in the application about Mr V's expenditure and other financial commitments. Whilst HCCF said that an income of £15,000 was sufficient to meet its loan repayments of £276.42, I am not persuaded that such an assessment of affordability was adequate if it did not also consider Mr V's other commitments and expenditure. I cannot see how an assessment of Mr V's ability to meet repayments in a sustainable manner could be made without considering information about Mr V's expenditure and his other financial commitments.

HCCF also said that Mr V had knowingly obtained credit he could not afford. I agree, but I can also see that Mr V did not provide any inaccurate information in his application form (other than under-estimating his income). In the circumstances of this complaint, I am not persuaded that an assessment based on the brief application details provided by Mr V was sufficient to meet the assessment of affordability envisaged by the OFT.

I also note that HCCF said that it had no reason to believe that Mr V was unable to repay the loan. But, I would have reasonably expected HCCF to be alerted to the fact that Mr V had taken out four loans totalling £38,000 in the three months previously, and to have made further enquiries to check the position before lending.

I agree with the adjudicator that Mr V did have the benefit of the capital amount he borrowed, so I am not persuaded that it would be appropriate for HCCF to repay him this.

I have a great deal of sympathy for Mr V and the situation in which he finds himself. Having carefully considered the circumstances of this complaint, I am not persuaded that HCCF had adequately assessed whether Mr V was able to afford the loan. But, I am satisfied that the recommendations made by the adjudicator are an appropriate resolution to this complaint.

## **my final decision**

My decision is that I uphold this complaint in part. In full and final settlement of this complaint, I order Hitachi Capital (UK) PLC, trading as Hitachi Capital Consumer Finance, to:-

1. Remove any interest or charges added to the loan;

2. Apply all loan repayments already made by Mr V towards the capital borrowed only, (and not towards any interest or charges);
3. Rework the loan with the remaining balance set up in an interest free account; and
4. Treat Mr V sympathetically and positively in arranging a suitable repayment plan with him.

Roslyn Rawson  
**ombudsman**