

complaint

Mr A complains that Madison CF UK Limited trading as 118118 Money ("MCF") lent to him in an irresponsible manner. He further complains that MCF failed to make him aware that it intended to default his account when he faced problems making his repayments.

background

The background to this complaint was set out in the provisional decision I issued earlier this month. An extract from this is attached and forms part of this final decision, so I will not repeat that information here.

In my provisional decision I explained why I was minded to uphold part of the complaint. I invited both parties to let me have any further comments and evidence. MCF accepted my provisional decision. But it noted that its records indicated that Mr A hadn't yet repaid the loan. It asked that we check that Mr A understood that removing the default would mean the loan, with its late repayments, would remain on his credit file for a longer period.

Mr A also accepted my provisional decision. In response to what MCF had said he provided us with an extract from his credit file showing the loan was settled in December 2020. And he told us he was aware of how his credit file would be impacted by the removal of the default, but still wished to proceed in that way.

my findings

I've once more considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Given that both parties have said they accept my provisional decision I see no reason to alter the conclusions I reached there.

From the evidence Mr A has provided I am satisfied that his account balance has been repaid although whether or not the loan is outstanding doesn't affect the redress I am proposing here. But MCF might want to liaise with the third-party debt collection company to update its records to reflect the current status of the loan.

For the reasons I explained in my provisional decision, I don't think MCF was wrong to give the original loan to Mr A. But I think that MCF's error in the address it used to send the default notice to Mr A means that it wasn't successfully received. I think that had Mr A received the default notice he'd have taken steps to bring his account up to date, and prevent the default being added. So I think the default has been added unfairly and should be removed from Mr A's credit file.

putting things right

In order to put things right for Mr A, MCF should;

- Remove the default from Mr A's credit file. It is reasonable to show the loan as having an arrears status until it was repaid, but it should not be shown as having entered default.
- Pay the sum of £100 to Mr A in respect of the trouble and upset he was caused by the communication failures during July 2018.

my final decision

My final decision is that I uphold part of Mr A's complaint and direct Madison CF UK Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 24 April 2021.

Paul Reilly
ombudsman

EXTRACT FROM PROVISIONAL DECISION

complaint

Mr A complains that Madison CF UK Limited trading as 118118 Money (“MCF”) lent to him in an irresponsible manner. He further complains that MCF failed to make him aware that it intended to default his account when he faced problems making his repayments.

background

Mr A was given a single loan by MCF. He borrowed £1,000 in July 2017 and agreed to repay the loan in 24 monthly instalments. Early the following year Mr A lost his job and faced problems making the agreed repayments. Although he did discuss his issues on a number of occasions with MCF, his account fell further into arrears and in June 2018 MCF told him that it intended to default the account. That default was applied in July 2018. Mr A’s outstanding balance was later transferred to a third-party debt recovery company, but Mr A tells us that it has now been fully repaid.

Mr A’s complaint has been assessed by one of our adjudicators. She thought that the checks MCF had done before agreeing the loan had been proportionate and didn’t give the lender any cause for concern that Mr A wouldn’t be able to repay what he’d borrowed in a sustainable manner. So she didn’t think MCF had been wrong to lend to Mr A. She did however think that MCF’s communications with Mr A when he was facing problems repaying the loan could have been better. She asked MCF to pay Mr A £100 for the trouble and upset he’d been caused. But she didn’t think MCF had been unfair when it defaulted the loan.

MCF accepted our adjudicator’s assessment. But Mr A didn’t agree. So, as the complaint hasn’t been resolved informally, it has been passed to me, an ombudsman, to decide.

my provisional 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 set out our approach to unaffordable/irresponsible lending complaints on our website and I’ve kept this in mind while deciding Mr A’s complaint.

The rules and regulations at the time MCF gave this loan to Mr A required it to carry out a reasonable and proportionate assessment of whether he could afford to repay what he owed in a sustainable manner. This assessment is sometimes referred to as an “affordability assessment” or “affordability check”.

The checks had to be “borrower” focused – so MCF had to think about whether repaying the credit sustainably would cause difficulties or adverse consequences for Mr A. In practice this meant that MCF had to ensure that making the repayments wouldn’t cause Mr A undue difficulty or adverse consequences. In other words, it wasn’t enough for MCF to simply think about the likelihood of it getting its money back, it had to consider the impact of any repayments on Mr A.

Checks also had to be “proportionate” to the specific circumstances of the loan application. In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount / type / cost of credit they are seeking.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer’s income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income);

- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income);
- the *longer* the period of time a borrower will be indebted for (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I've kept all of this in mind when thinking about whether MCF did what it needed to before agreeing to lend to Mr A.

MCF gathered some information from Mr A before it agreed the loan. It asked him for details of his income, and his normal expenditure. And it checked his credit file to assess how much he was repaying to other creditors and how he'd managed his credit accounts in the past.

The credit check showed that Mr A had experienced some significant problems repaying credit in the past. It showed a number of accounts that had been defaulted around four years before. But more recently Mr A's credit file showed little use of credit. And those accounts that were open at the time were generally well managed. So I don't think the results of the credit check should have caused significant additional concerns for the lender.

I think that the checks MCF did before agreeing the loan were proportionate. The amounts that Mr A needed to repay were small compared with the disposable income he'd declared. Given these repayment amounts and what was apparent about Mr A's circumstances at the time, I don't think it would've been proportionate for MCF to ask him for the amount of information that would be needed to show the lending was unsustainable before agreeing the loan. So I don't think it was irresponsible for MCF to agree to give Mr A this loan.

Early in 2018 Mr A told MCF that he'd lost his job. And as a result he said that he'd find it difficult to make his repayments. I've listened to a number of calls between MCF and Mr A from the time, and looked at the letters MCF says that it sent to him.

At that time the regulator would expect MCF to take steps to ensure that Mr A was treated fairly, with forbearance and with due consideration. It provided firms with a number of examples of this sort of behaviour including the consideration of reducing or waiving future interest charges, allowing the payment of arrears to be deferred, or accepting token payments for a reasonable period of time.

It is my understanding that the regulator's guidance isn't intended to leave debts outstanding for an indefinite period of time. Instead the requirement for lenders to show forbearance and due consideration to consumers who are facing financial difficulties is to allow a reasonable period of breathing space for consumers, facing an unexpected fall in their disposable income, to review their options. Generally MCF offered a number of opportunities to Mr A to place his account on hold for periods of 30 days. I think that was in line with the regulator's guidance.

But, reaching those agreements wasn't an easy process. Mr A found himself needing to repeat information about his circumstances on each occasion. It doesn't seem to me that MCF treated him appropriately in terms of taking notes of his situation for its advisors to refer to when Mr A called. The result of that was that Mr A spent far longer on the phone to MCF than he might have. So I agree with our adjudicator that the way MCF dealt with Mr A caused him some trouble and upset, and that it would be appropriate to make a payment to him in that respect. I think the amount of £100 proposed by our adjudicator, and agreed by MCF, is fair and reasonable.

I have looked at the communication between MCF and Mr A just before the default was applied to his account. The regulations require MCF to provide Mr A with notice before a default is applied, to allow him a period of time to bring his account up to date. MCF has provided us with copies of the statutory notices that it issued to Mr A in that regard.

I have concerns about the address that MCF used when sending the letters to Mr A. On each of the calls that I listened to Mr A provided MCF with his correct postal address as part of its identity checks. And the information MCF has shown us from its systems also holds Mr A's full postal address. But on the letters it sent him about his arrears, and notifying him that his account would be defaulted, MCF included only part of the address. Whilst it is possible the address MCF used might have been sufficient for the letters to be successfully delivered, and MCF says it has no record of returned mail, Mr A says that the letters didn't arrive at his home.

I have no reason to doubt what Mr A says. And he had a number of phone calls with MCF in early July – a couple of weeks after the default was added – where he was trying to understand the current status of his loan. I think it is clear from those phone calls that Mr A understood how serious it would be for a default to be added to his account. So I think that adds weight to a conclusion that Mr A didn't receive the letters that MCF sent. And I think the most likely reason for the letters not arriving was the error MCF made in Mr A's address.

But I also need to consider whether Mr A would have acted any differently if he had received the letters. As I said earlier I have no doubts that Mr A was aware that a default would reduce his ability to get credit in the future. Mr A had suffered from defaults a number of years before he took the loan with MCF – but he would have expected those to drop off his credit file in the relatively near future. So I think he would have taken whatever steps he could to prevent a new default being added.

In order to prevent the default being added Mr A would have needed to make a payment of his arrears to MCF. That might have been difficult for him given his employment circumstances. And I have to consider that after the default had been applied it was some time before Mr A started to again repay his borrowing. But I don't think that means Mr A wouldn't have found a way to pay the arrears on his account. Once the default had been added, and MCF had confirmed that repaying the arrears wouldn't result in the removal of the default, I think it would have made sense for Mr A to apply any funds to ensure other accounts didn't default too.

So on balance I think that MCF's error in the address it used to send the default notice to Mr A means that it wasn't successfully received. I think that had Mr A received the default notice he'd have taken steps to bring his account up to date, and prevent the default being added. So I currently think the default has been added unfairly and should be removed from Mr A's credit file.