

complaint

Mr K complains that Madison CF UK Limited trading as 118118 Money ("MCF") lent to him in an irresponsible manner.

background

Mr K's complaint has previously been considered by another ombudsman who issued a provisional decision on the complaint in November 2020. I understand that both Mr K and MCF indicated that they accepted the provisional decision. However the original ombudsman is no longer working on complaints of this nature. So the complaint has been passed to me to decide. My decision, that I explain below, is the same as that provisionally reached by the original ombudsman.

Mr K was given a single loan by MCF in April 2018. He borrowed £2,000 and agreed to repay the loan in 24 monthly instalments. The loan remained outstanding when Mr K brought his complaint to this Service.

my 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 K's complaint.

The rules and regulations at the time MCF gave this loan to Mr K 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 K. In practice this meant that MCF had to ensure that making the repayments wouldn't cause Mr K 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 K.

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 K.

MCF gathered some information from Mr K before it agreed the loan. It asked him for details of his income, and his normal expenditure. It checked his credit file to assess how much he was repaying to other creditors. And it discussed some of the details about the loan on a phone call with Mr K.

The credit check highlighted that Mr K hadn't always managed his borrowing well in the past. He had defaulted on a number of other accounts which still remained on his credit file. I accept that those defaults had taken place a number of years earlier, and so might not be representative of Mr K's current financial position. But I think they should have led to MCF at least undertaking some more detailed investigations.

Mr K was entering into a significant commitment with MCF. He would need to make monthly repayments for a period of two years. So, given what I have said above, I would expect that MCF would want to gather, and independently check, some detailed information about Mr K's financial circumstances before it agreed to lend to him. I don't therefore think that the checks it did were enough. I think it would have been proportionate for MCF to independently check the true state of Mr K's finances before agreeing the loan.

But although I don't think the checks MCF did before agreeing the loan were sufficient, that in itself doesn't mean that Mr K's complaint should succeed. I'd also need to be persuaded that what I consider to be proportionate checks would have shown MCF that Mr K couldn't sustainably afford the repayments. So I've looked at Mr K's bank statements, and what he's told us about his financial situation, to see what better checks would have shown MCF.

At this stage I want to be clear that I am not suggesting that this is the exact check that MCF should have carried out. I do think MCF needed evidence to corroborate what Mr K said was happening with his finances. And looking at his bank statements is one way of achieving that although there are of course many other ways that level of detail could be established. But I think that by looking at Mr K's bank statements I can get a good idea of what better checks might have shown.

Mr K's bank statements show that he was already borrowing heavily from a range of other short term lenders. And Mr K appears to have been facing significant problems managing his expenditure. In the month before the loan was agreed Mr K spent more than double his normal income on what appear to be online gambling transactions. Mr K has told us that he had a serious gambling addiction at the time. I think this information would have been clear to MCF had it done what I consider to be proportionate checks. And given the undoubted pressure on Mr K's finances I think a reasonable lender would have concluded it was unlikely that the loan could be repaid in a sustainable manner.

So in summary, I don't think the checks MCF did before agreeing this loan were sufficient. And I think that better checks would have led to Mr K's application being declined. So MCF needs to pay Mr K some compensation.

putting things right

I don't think MCF should have lent to Mr K in April 2018. So MCF should;

- remove any interest and charges still outstanding on the loan and treat all the payments Mr K made towards this loan as payments towards the capital.
- if reworking Mr K's loan account as I've directed results in Mr K effectively having made payments above the original capital borrowed, then MCF 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 Mr K's loan account leaves an amount of capital still to be paid, I remind MCF that it should take a sympathetic view when seeking to agree an affordable repayment plan with Mr K.
- remove any adverse information recorded on Mr K's credit file in relation to the loan.

† HM Revenue & Customs requires MCF to take off tax from this interest. MCF must give Mr K a certificate showing how much tax it's taken off if he asks for one.

my final decision

My final decision is that I uphold Mr K'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 K to accept or reject my decision before 4 March 2021.

Paul Reilly
ombudsman