

complaint

Miss M complains that Nextcredit Limited gave her loans that she couldn't afford.

background

Miss M took out two loans with Nextcredit in 2016. Both were for £500. She took the first one in June. It was repayable by three monthly instalments of £197.55 and a final instalment of £130.73. In the event, Miss M repaid the first loan after less than a fortnight, in a single payment of £540.

It was then just over two months before Miss M took out the second loan. This time, the loan was repayable by six monthly instalments. The first five were £165.02, with a final payment of £120.54 due in February 2017. Miss M paid the first two instalments on time, but then fell behind with her payments.

Miss M says the loans weren't affordable. She believes that Nextcredit should have realised this, as she says her credit file would have shown other short-term loans and defaults.

Our adjudicator recommended that the complaint should be upheld in part. Briefly, he thought Nextcredit should have checked more carefully that Miss M could afford the second loan, given the results of the credit check it carried out. And he thought that if it had done so, it would have discovered that Miss M already had substantial loans outstanding with other short-term lenders and was gambling extensively. This didn't leave her with enough disposable income to repay the second loan.

Nextcredit disagreed with the adjudicator's view, so the complaint has been passed to me.

my findings

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

Nextcredit was required to lend responsibly. It needed to make checks to see whether Miss M could afford to pay back each loan before it lent to her. Those checks needed to be proportionate to things such as the amount Miss M was borrowing, the length of the agreements and her borrowing history. But there was no set list of checks Nextcredit had to do.

It's true that the first loan was for a significant amount. But Miss M told Nextcredit that her take-home pay was more than £4,000 per month, with monthly expenses of £2,525. Nextcredit verified Miss M's income with a copy of her most recent payslip. In the absence of anything to indicate that they might be inaccurate, Nextcredit was entitled to rely on the information Miss M provided. And on the basis of what she told it in her application, I don't think Nextcredit was irresponsible to make the first loan.

The figure Miss M gave for her monthly outgoings had decreased when she applied for the second loan. Nextcredit says that its affordability assessment built in an additional level of expenditure to account for that. But it says the assessment still showed that Miss M had enough disposable income to afford the loan.

But Nextcredit also carried out a credit check before agreeing to the second loan. And I don't think it took sufficient account of what it revealed. The check showed that Miss M had opened 34 accounts in the previous six months. I acknowledge that Nextcredit says that as a lender, it wouldn't have reviewed every aspect of the credit file, and that it would only have read specific elements of it, in accordance with its lending policy at the time.

But I've seen a copy of the results of the search that Nextcredit carried out, and the fact that Miss M had opened 34 accounts in the preceding six months is clearly and reasonably prominently shown. It's this sort of information that I would expect to serve as a warning sign. And I think that in this case, it ought to have alerted Nextcredit to the possibility that Miss M was borrowing unsustainably. So I think it ought to have carried out more detailed checks before lending further.

At the very least, I think Nextcredit should have asked Miss M specifically about any other short-term loans she had outstanding at the time. If it had done so, I think it's likely that it would have discovered that she already had multiple loans outstanding with other lenders, including several that she'd taken out within a couple of weeks before the second loan. The repayments due on those would have left her with no disposable income to repay the second loan. So I find that if Nextcredit had carried out proportionate checks, it would have realised that the second loan was unaffordable to Miss M.

Nextcredit has commented that it couldn't have been expected to know about Miss M's gambling expenditure at the time. But since I'm satisfied that Miss M had no disposable income - even without taking her gambling expenditure into account - I don't need to consider the point further.

putting things right

To put things right, Nextcredit Limited should:

- refund all interest and charges that Miss M paid on the second loan, which she took out in September 2016;
- pay interest on those refunds at 8% simple* per year from the dates of payment to the date of settlement;
- apply the refund to reduce any capital outstanding, and pay the balance to Miss M;
- write off any interest and charges that haven't yet been paid; and
- remove any negative information about the second loan from Miss M's credit file.

† HM Revenue & Customs requires Nextcredit to take off tax from this interest. Nextcredit must give Miss M a certificate showing how much tax it's taken off if she asks for one.

my final decision

My decision is that I uphold this complaint in part. I require Nextcredit Limited to put things right by doing as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 6 October 2017.

Juliet Collins
ombudsman