

complaint

Mr S complains that Greenlight Credit Ltd lent to him irresponsibly because it should have been aware through the checks it completed that he had a gambling problem.

background

Mr S applied for a log book loan with Greenlight in September 2017. He borrowed £4,000 and agreed to repay this over 30 months with monthly payments of £366.67.

Mr S got in touch with Greenlight in July 2018; he said he was struggling to make his monthly payments towards the agreement. He said Greenlight had checked his bank statements but didn't pick up that he was spending significant sums on gambling. Mr S says Greenlight lent to him irresponsibly because it should have picked up that he had a gambling problem.

Greenlight didn't respond to Mr S's complaint within eight weeks so he brought his complaint to this service. Mr S provided copies of his bank statements showing the size and frequency of his gambling transactions.

Greenlight originally said that Mr S had provided it with an account statement from one bank (I'll call bank A). The statement he provided this service was from another bank (I'll call bank B). Greenlight originally said the statement for bank A was checked, which didn't cause it any concerns about lending to Mr S. Mr S said he provided the statements for both bank A and bank B to Greenlight.

Greenlight went on to say Mr S had provided details of his income and expenditure which was verified using his pay slips. It also says it completed a credit check on him and as there were no concerns it wasn't necessary for it to complete any further checks. It says the checks it completed were proportionate.

The investigator that looked into the complaint thought it should be upheld. He'd seen that Greenlight had emailed Mr S with a list of documents that its agent would need to review before he could be given the loan, which included bank statements. The statements for bank A and B both showed high frequency of gambling transactions. He concluded that it was most likely Greenlight had reviewed Mr S's bank statements which showed that between 3 July and 2 September 2018 he made 119 card payments to gambling websites, to the value of £2,699.65. Greenlight had recorded Mr S's monthly income as £1,856.00.

The investigator concluded Greenlight hadn't followed its own gambling procedures. He said it was irresponsible for Greenlight to lend to Mr S in the circumstances. He said Mr S should only have to pay the capital of the loan back, all interest and charges should be waived and any reference to the agreement needed to be removed from his credit file.

Greenlight didn't agree with his assessment. It said that Mr S wasn't required to provide bank statements but rather any proof of income which could include bank statements. It said that Mr S's income had been verified using his payslips and it used the information provided to determine he was eligible for the loan.

It said that it would now be pursuing Mr S for making a fraudulent application and record his details on a national fraud database. It said it wouldn't update Mr S's credit file unless instructed to do so by the Information Commissioner's Office. It also explained that it would

not put on hold repossession action while the matter was ongoing with this service and it would try and collect the car unless a final decision was issued preventing it from doing so.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I got in touch with both sides to explain that I agree with the investigator's opinion that Mr S shouldn't have been given the loan. But to put things right I think Greenlight should do something different to what the investigator recommended.

I explained I thought Greenlight should also pay Mr S some compensation for the distress and inconvenience he was caused by its collection activities. The loan could be recorded on Mr S's credit file but any adverse information should be removed. And that it wouldn't be fair to record Mr S's details on a fraud database because of this loan application.

Mr S accepted this but Greenlight didn't. It said that I was placing too much onus on it to protect consumers and that Mr S had lied on his application.

did Greenlight complete sufficient checks before agreeing to lend to Mr S?

The Financial Conduct Authority sets out regulations for lenders in its consumer credit sourcebook (known as "CONC"). These regulations require lenders to take "*reasonable steps to assess the customer's ability to meet repayments*"

I agree with Greenlight's assertion that a person who applies for a loan should be truthful about their financial circumstances and so a lender should be entitled to accept what its customer tells it. However, CONC 5.3.3 says:

"...a firm should take adequate steps, insofar as it is reasonable and practicable to do so, to ensure that information (including information supplied by the customer) on an application for credit ... is complete and correct."

And CONC 5.3.7R says:

"A firm must not accept an application for credit under a regulated credit agreement where the firm knows or ought reasonably to suspect that the customer has not been truthful in completing the application in relation to information supplied by the customer relevant to the creditworthiness assessment or the assessment required by CONC 5.2.2R (1)."

Finally, CONC 5.3.1(4) also says:

"If a firm takes income or expenditure into account in its creditworthiness assessment or its assessment required under CONC 5.2.2R (1):

(b) it is not generally sufficient for a firm to rely solely for its assessment of the customer's income and expenditure, on a statement of those matters made by the customer;"

I've considered what Greenlight has said in light of this.

Greenlight says the income and expenditure information Mr S submitted showed the loan was affordable. But I think that it placed far too much reliance on Mr S's declaration of income and expenditure and I don't think it did enough to verify this information. In my view, there were signs that Greenlight should complete further checks before agreeing to lend to Mr S. So it ought to have done this.

The income and expenditure details submitted at the time show Mr S's income as £1,856 (net) and after deducting normal monthly expenditure, this left him with over £600 disposable income each month before taking out the loan. So this would have left him with around £360 disposable income once payments towards the loan had been taken into account, which on the face of it seems affordable.

But the two months' wage slips Mr S provided show him earning £1,222.26 and £1,729.25 (net). I haven't seen anything which suggests Greenlight questioned the difference between these figures and what Mr S said during his application. Or that Mr S provided an explanation of why his stated regular income was larger than the wages he received.

Greenlight says it also completed a credit check. This involved reviewing Mr S's credit score and completing an affordability check. I understand this compares his payments due each month, according to his credit file with his recorded disposable income to see if the loan payments would be affordable. Greenlight says it will only review the full credit file if any concerns are raised in these checks.

Mr S passed Greenlight's affordability check, but his credit score was 374. The score is quite low suggesting that Mr S had at least some adverse information on his credit file, which wasn't consistent with what was recorded on the income and expenditure form. There could have been a number of reasons why Mr S's credit score was low. But I think Greenlight should have questioned why an applicant with only £145 stated loan and credit card commitments and over £600 of disposable income would have such a low score. So I think this should have been an indicator to Greenlight that it needed to do more. It's confirmed that the next step it would take in such a situation would be to review a full credit report. So I think this is what it should have done.

Mr S's credit file shows that at the time Greenlight agreed the loan he had a number of outstanding debts. The majority of them were in arrears, defaulted, subject to arrangements to pay or debt management plans. These entries are clear indicators that Mr S wasn't meeting his financial commitments and don't match up with either the outstanding debts recorded on the income and expenditure form, nor the disposable income it showed he had.

Had Greenlight checked Mr S's credit file as I think it should have, bearing in mind all the of the particular circumstances in this case, I don't think it would have agreed to lend to him.

did Greenlight check Mr S's bank statements?

I have seen an email sent to Mr S which lists a number of documents he would need to provide to the agent before his loan could be approved. One of which was "*proof of income (2 months bank statements)*". And Mr S says he showed Greenlight's agent two sets of bank statements online. And he said no concerns were raised over the gambling transactions.

But Greenlight now denies this, it says providing statements isn't a requirement as long as it can verify the applicant's income in another way. It says it didn't need to see the statements because it had already verified Mr S's income using his payslips.

Greenlight has reviewed the statements now and it agrees they show Mr S had a gambling problem at the time. It says had it seen them at the time it wouldn't have lent to Mr S.

I can't say for sure whether Greenlight did check the statements at the time. But even if it didn't I think that Greenlight should have taken steps to ascertain Mr S's actual financial position bearing in mind what I've said it ought to have been aware of. Greenlight could have done this by requesting bank statements (especially as it does, in some circumstances appear to be part of its lending process), or by some other method. But, in my view, what it needed to do was get a satisfactory explanation for the discrepancy between Mr S's declaration of income and expenditure and what its credit check was suggesting.

Greenlight told our investigator it has a gambling policy and will refuse lending if the size or frequency of gambling transactions doesn't meet its criteria. I can't see that Greenlight can follow its own policy and ensure it's implemented without investigating such large discrepancies between what a consumer is declaring and what its checks are showing. So I think it shouldn't have lent until it investigated this discrepancy. If it had done this it would have been aware of the size and frequency of Mr S's gambling and as it has acknowledged; it wouldn't have lent to him.

Overall I don't think the checks Greenlight completed were sufficient, particularly in light of the information they knew and had at hand. If they had been Greenlight wouldn't have agreed to lend to Mr S.

what should Greenlight do to put things right?

Mr S has ended up paying interest and charges on a loan which he shouldn't have been given. I don't think Mr S should be required to pay the interest and charges incurred on the loan.

I can see from the account statements that Mr S has paid back more than the original capital borrowed. So I think Greenlight should refund him all the interest and charges applied to the loan and write off the outstanding loan balance. It should also pay 8% simple interest per year on the interest and charges that were paid (in other words any payments over and above the amount of money Mr S originally borrowed).

I can see Greenlight has also been chasing Mr S for arrears and told him it would repossess the car which he uses for work. I think this would have understandably caused Mr S some distress, which wouldn't have been caused had it not lent to him irresponsibly. So I think it should also pay him £150 compensation.

what should Greenlight report to credit reference agencies about this agreement?

Greenlight has said it would be breaching its obligation to record accurate information if it were to amend what's recorded on Mr S's credit file. But I don't agree that's the case. If Greenlight had completed the checks it should have done then it would never have lent to

Mr S. I don't think it's reasonable for adverse information to be recorded as a result of that. So I think it's fair Mr S's credit file is amended so there's no adverse information recorded as a result of this loan.

After our investigator made his decision to uphold Mr S's complaint, Greenlight told him that it would report Mr S to the national fraud database, for making fraudulent loan applications.

Consumer credit providers are required to carry out sufficient checks to ensure that consumers can sustainably repay what they are being asked to commit to, before granting any credit. This places a higher requirement on them, rather than the applicant, during the application process, to consider all the information available to them. I can't see Greenlight did that. And I don't think it would be reasonable for Greenlight to report anything to any fraud database regarding this loan agreement.

I should also point out Greenlight knew this information previously and only took this decision once the complaint was upheld. This gives the impression that it is in retaliation for Mr S having made a complaint to our service, rather than a report made in good faith. It would be contrary to the statutory purpose of Part XVI of the Financial Services and Markets Act 2000 for any FCA regulated firm to try to discourage a consumer from bringing a complaint in such a manner, or to appear to do so.

my final decision

I uphold this complaint. To put things right Greenlight Credit Ltd should:

1. refund all the interest and charges on Mr S's loan; and
2. add interest at 8% per year simple on the above interest and charges from the date they were paid to the date of settlement*;
3. remove any adverse information from Mr S's credit file in relation to this agreement;
4. return the log book to Mr S;
5. pay Mr S £150 compensation for the distress and inconvenience he's been caused.

* If HM Revenue & Customs requires Greenlight Credit Ltd to take off tax from this interest. Greenlight Credit Ltd must give Mr S a certificate showing how much tax it's taken off if he asks for one

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 20 April 2019.

Christopher Bick
ombudsman