

complaint

Mr W complains that Greenlight Credit Ltd trading as Varooma was irresponsible when it provided him with a logbook loan in August 2017.

background

Mr W applied for a logbook loan with Varooma in August 2017. He borrowed £1,400 which was repayable over two years with monthly payments of £151.67. The total amount Mr W had to repay was £3,640. Repayment of the balance under the loan credit agreement was secured by a bill of sale over Mr W's motor car. In simple terms this means that if Mr W failed to meet the terms of the loan his car could be repossessed by Varooma. Towards the end of 2018 Mr W began to fall behind with his loan repayments.

Mr W complained to Varooma in January 2019. But it didn't agree that it had done anything wrong when it provided him with the loan. So he brought his complaint to this Service. One of our adjudicators looked into the matter and recommended that Mr W's complaint be upheld. Varooma doesn't agree, so the complaint has been passed to me - an ombudsman - for a final decision. If Mr W accepts my final decision it will be binding on the parties.

my findings

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

At the time this loan was granted Varooma was regulated by the Financial Conduct Authority (FCA). Its Principles for Business (PRIN) set out the overarching requirements applicable to all firms authorised by the FCA.

PRIN 2.1.1 R (6) states that a firm must pay due regard to the interests of its customer and treat them fairly.

The Consumer Credit Sourcebook (CONC) sets out the rules and guidance which apply to logbook loan providers like Varooma. CONC 5 provides details of a firm's obligation in relation to responsible lending.

In particular Varooma needed to take reasonable steps to ensure that it didn't lend irresponsibly. It had to carry out proportionate checks to make sure Mr W could repay his loan in a sustainable manner. And it had to consider the potential for the loan commitments to adversely impact Mr W's financial situation taking into account the information of which it was aware at the point the loan was taken.

Additionally, when carrying out its assessment Varooma had to take into account more than simply assessing a customer's ability to repay the credit. It had to be repayable in a sustainable way (CONC 5.3.1G(1)).

For the loan repayments to be 'sustainable' Mr W would have to be able to make his repayments without undue difficulties whilst meeting other reasonable commitments and without having to borrow to meet the repayments (over the whole two year term) from income or savings.

Proportionate checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure.

And what is proportionate depends on a number of factors. The regulations aren't prescriptive about what checks Varooma needed to carry out. But the checks needed to be proportionate. In general, I'd expect a lender to require more assurance the greater the potential risk to the consumer of not being able to repay the credit in a sustainable way.

As I've mentioned Mr W's loan was for £1,400 over 24 months repayable at just over £150 per month. Varooma asked Mr W about his income. He declared a monthly income of £2,600. I've listened to the call between Varooma and Mr W in which he confirmed his income. During this call Varooma confirmed a number of things including that Mr W wasn't subject to any insolvency arrangements. It also made checks about the car which was to be the security for the loan. I note that when Mr W says that ideally he wanted to borrow £1,400 the representative answered that could be done "no problem". He then stated the amount of the repayments and asked Mr W whether he wanted to proceed. He stated he did.

After the representative read the disclaimer he proceeded to explain to Mr W that Varooma would keep the logbook. It was at this point that Varooma began to ask Mr W about his income and outgoings. Given what had been said in the earlier part of the conversation it seems Varooma may have already decided to lend to Mr W before it confirmed his financial circumstances. But that aside, Mr W went on to confirm that his normal monthly living expenses amounted to around £1,129 (which included £760 rent). And he told Varooma that he was paying around £525 towards loans and £200 towards credit cards each month. This apparently left Mr W with £746 per month as disposable income from which to repay his loan.

I note that during the call the representative asked Mr W about the purpose for the loan (a holiday) and whether there were any other circumstances which might affect his ability to repay the loan – to which Mr W replied "no". There was then a discussion about how a local representative would meet with Mr W in person. Mr W was to bring to that meeting his logbook, proof of address and proof of income. Mr W offered to bring his payslips but the representative said they didn't accept those - he would have to show the local representative bank statements - perhaps on his phone.

So it seems that Varooma wanted to verify Mr W's income. But I haven't seen anything to suggest that it wanted to verify what he'd said about his outgoings even though he'd told Varooma that he was spending over a quarter of his income each month on debt repayments. This loan was going to tie in Mr W for two years. And if he didn't make the repayments in line with the agreement he stood to lose his car: something which could have very serious consequence for Mr W.

Furthermore Varooma has sent to us the screenshots from Mr W's phone which he provided to verify his income into his bank account. Two screenshots are provided – one for July 2017 and one for August 2017. Each screenshot includes only six transactions. Income from Mr W's employer is shown on each one. But the transactions not relating to the employer either relate to an on-line gambling business or other credit providers (including a different logbook loan provider). And they were for relatively significant sums. Varooma was in possession of this information but didn't ask any questions about these things.

In response to our adjudicator's assessment Varooma has made a number of comments including the following.

Varooma says that the outbound transaction to the other logbook loan provider was in settlement of that loan. It hasn't referred to the other transactions involving high cost credit

companies. It's unclear how Varooma knows for sure that Mr W had settled the other loan but even if it's correct on that point, the fact that he had very recently had another high cost logbook loan ought to have been a flag to Varooma to enquire further about that. Similarly the other transactions with other high cost lenders ought to reasonably have raised questions for Varooma.

Varooma also says that it didn't recognise the on-line gambling business but in any event those transactions don't raise concerns because Mr W's income was higher than his outgoings so he was gambling within his means. It added that Mr W would've understood that repayments to his loan would take priority over using his funds to gamble. The sums involved in the screenshots are relatively high and in light of that and their frequency I think there was a real risk that this level of spend on gambling might be repeated irrespective of whatever else Mr W needed to pay – for example to his loan. The two screen shots potentially showed that Mr W was using credit to fund gambling transactions.

With all of this in mind, I'm satisfied that Varooma failed in its duty to make a proportionate assessment. So I've thought about what Varooma would've seen if it had done what I consider to be proportionate.

I've been provided with a copy of Mr W's banks statements covering about four months before he took the loan with Varooma. From this I can see that he was making numerous payments to the on-line gambling business. Often they were for hundreds of pounds and sometimes they were for more than £1,000.

Additionally there are numerous transactions – credits and debits to high cost credit providers. On one occasion in June 2017 Mr W received funds from a payday loan provider of £1,100. Within a very short period of time, a payment for the same amount was made to the gambling business. Three days after that he received funds from another high cost credit provider in the sum of £1,200. The next transaction was to the gambling business – again for £1,200. I accept that from time to time Mr W received payments from the gambling business – these could've been winnings. But the overall picture from this statement is that Mr W was borrowing from numerous high cost credit providers to fund gambling transactions – and that far more was being paid to the gambling business than was being credited as winnings.

Varooma was the regulated business and it had to act responsibly because of the risk to Mr W being caused harm through unsustainable lending. Furthermore, 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)."

Varooma had the screen shots of Mr W's bank account. It couldn't simply take what it wanted from those (details of his income) and ignore the other transactions. The briefest of reviews would've provided Varooma with information which - as a responsible lender - it should've followed up and checked. As I've mentioned above, CONC also says that if a firm takes income or expenditure into account in its assessment it's not generally sufficient for it

to rely solely on a statement of those matters made by the customer (CONC 5.3.1(4)). So I'm not persuaded by Varooma's argument that "we can only go off what information the customer provides us and what we believe at the time is proportionate".

I note that Varooma says it carried out a credit file check for Mr W and that his score of 488 was higher than its minimum 400 for carrying out an in depth review of bank statements. So I acknowledge that by doing a credit check Varooma did more than solely rely on what Mr W declared for his income and outgoings.

But it seems to me that Varooma placed too much reliance on Mr W's self-declared income and expenditure information when the broader circumstances of the borrowing and the additional information it had in the form of the screenshots of the bank statements should've resulted in Varooma undertaking a full review of Mr W's financial situation. Had it done this I think it would've identified that it was unlikely he'd be able to afford the repayments sustainably and wouldn't have provided the loan. As Varooma failed to do this it acted unfairly towards Mr W.

So I uphold Mr W's complaint.

putting things right

Varooma should not have provided the loan to Mr W in August 2017 and I understand that there is an outstanding balance so I require it to:

- A. Remove all interest, fees and charges from the balance and treat all repayments, fees and charges paid by Mr W as though they were repayments towards the principal. From what I can see Mr W has repaid more than the £1,400 principal originally borrowed. If that is correct it means that he has overpaid, so Varooma should refund all those overpayments together with 8% simple interest* from the date the overpayments were made to the date of settlement

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

- B. Remove entries about this loan from Mr W's credit file
- C. Return the vehicle logbook to Mr W if it hasn't already done so

my final decision

For the reasons outlined above I uphold Mr W's complaint against Greenlight Credit Ltd and require it to put things right in the way I've explained.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 13 October 2019.

EJ Forbes
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