

## **The complaint**

Mr A complains that Close Brothers Ltd (CBL) agreed to lending he couldn't afford.

## **What happened**

In July 2022 Mr A acquired a van after entering into a conditional sale agreement with CBL. The cash price of the van was £11,999, Mr A paid a deposit of £1,200. After interest and charges were applied Mr A had a total amount to repay of £16,530. Repayable in monthly instalments of £255.50 over 60 months.

Mr A raised concerns about the quality of the car and the service he received from CBL. He said he struggled to maintain his repayments and entered into a payment arrangement with CBL. But the agreement was terminated. Mr A raised several complaints to CBL, which CBL responded to. But CBL hadn't responded to Mr A's complaint about the lending being unaffordable, so he's referred his complaint to us.

Our investigator said on the evidence provided by CBL he couldn't say whether their checks were proportionate and reasonable. So, he considered further information provided by Mr A about his income and expenditure. Based on this he said the lending was affordable as Mr A had sufficient disposable income to sustain the repayments.

Mr A didn't agree and asked for an ombudsman to decide.

## **What I've decided – and why**

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

Firstly, Mr A has brought several complaints to this service, the complaint that remains in dispute for me to consider is about whether CBL sufficiently checked the affordability of the lending and whether they made a fair lending decision. So, I will only comment about this and won't refer to Mr A's other complaints.

I appreciate Mr A will be disappointed by my decision but having done so I'm not upholding his complaint. I'll explain why.

CBL needed to ensure that they didn't lend irresponsibly as per the rules set out in the Financial Conduct Authority's (FCA) Consumer Credit Sourcebook (CONC). This means CBL needed to carry out proportionate checks to be able to understand whether the lending was affordable for Mr A before providing it.

In this case, there are two overarching questions that I need to answer to fairly and reasonably decide Mr A's complaint. These two questions are:

1. Did CBL complete reasonable and proportionate checks to satisfy themselves that Mr A would be able to repay his loan without experiencing significant adverse consequences?

- If so, did they make a fair lending decision?

- If not, would those checks have shown that Mr A would have been able to do so?

## 2. Did CBL act unfairly or unreasonably in some other way?

Repaying debt in a sustainable manner means Mr A being able to meet repayments without undue difficulty - using regular income, avoiding further borrowing to meet payments and making timely repayments over the life of the agreement.

CONC doesn't give a set list of checks that should be done. But that the level of detail that should be sought was dependent on the type of credit, the amount of credit being granted and the associated risk to the borrower relative to the borrower's financial situation.

I've considered the checks done by CBL.

CBL said Mr A was employed full time and he'd a monthly declared income of £2,800. They used a modelling tool to assess Mr A's income and expenditure, using a monthly income of £3,928 and outgoings for rent - £753, non-discretionary spending - £1,180, and credit commitments - £1,284. They assessed that this left Mr A with a disposable income of £711, after factoring in the monthly repayments of £255.50, they decided the lending was affordable for him.

From the affordability information provided by CBL I can see they modelled Mr A's income higher than the amount he declared on his application. I haven't seen any evidence of CBL verifying this amount and considering it is over £1,000 more than Mr A's declared income of £2,800 I think this is something I would have expected to see. I also haven't seen any evidence of a credit history check. And as Mr A said he'd several motor finance agreements as well as other credit commitments I think by modelling Mr A's income and expenditure only I don't think CBL would have an understanding of whether Mr A could sustain the repayments. So, I can't say their checks were proportionate or reasonable.

But saying CBL should have done more before lending to Mr A doesn't automatically mean his complaint should succeed. I also need to be persuaded that what I consider to be proportionate checks would have shown CBL that Mr A couldn't sustainably afford the credit.

As previously mentioned, there isn't a set list of checks that a lender should make, but bank statements will I think usually provide a good understanding of someone's financial situation as they should show their income and essential outgoings.

Mr A has provided his bank statements for the three months prior to the lending. And from these I can see Mr A's average monthly salary was around £1,985. But I can also see he had regular payments into the account averaging around £860, some of the transactions had a "car" reference. So, Mr A's average income excluding his child benefits was around £2,845 which is comparable to the amount declared by Mr A.

I've also considered Mr A's regular outgoings for housing costs, food, petrol, insurance, loans, and phones which is on average around £2,356. Factoring in Mr A's new lending of £255.50, I think leaves Mr A with a disposable income of around £235, which I think is sufficient for Mr A to sustain his repayments.

Overall, taking the above into account, I think Mr A was managing his finances and had sufficient disposable income to cover his expenditure. So, I'm satisfied CBL if they had checked further into his financial circumstances would have still agreed to the lending. So, I don't think CBL has acted irresponsibly in lending to Mr A as he'd sufficient income to afford the repayments.

I understand the agreement has since been terminated and that CBL has written off any outstanding balance.

**My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 9 April 2024.

Anne Scarr  
**Ombudsman**