

The complaint

Ms H complains that Admiral Financial Services Limited trading as Admiral Loans (“Admiral Loans”) is holding her liable for the debt on a loan which she says she neither applied for nor consented to.

What happened

The background to this complaint is well known to both parties, so I won’t repeat everything here. In brief summary, in March 2023 a loan was taken out with Admiral Loans in Ms H’s name for £15,000. Ms H subsequently got in touch with Admiral Loans to let it know she hadn’t applied for or consented to the loan. Admiral Loans investigated things and ultimately couldn’t reach agreement with Ms H, so she referred her complaint about Admiral Loans to us. As an Investigator here couldn’t resolve the matter informally, the case has been passed to me for a decision.

I sent Ms H and Admiral Loans my provisional decision last month, explaining why I was minded to uphold this complaint in part. Now both parties have had fair opportunity to respond, I’m now ready to explain my final decision.

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.

I’ve focused on what I think is the heart of the matter. If there’s something I’ve not mentioned, it isn’t because I’ve ignored it. I haven’t. I’m satisfied I don’t need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I’ve reached the same conclusions as in my provisional decision and for materially the same reasons. I’ve explained my reasons again below, with some further comment, where I have deemed this appropriate, to address the responses to my provisional decision.

First let me clarify exactly what this decision is about. I understand Ms H has explained that in March 2023 she was tricked by scammers resulting in six loans being taken out in her name without her knowledge or consent. Ms H has explained that three of these loans were written off by the respective lenders. But there are still three loans in her name: a £14,500 loan with L, a £15,000 loan with M, and this £15,000 loan with Admiral Loans. At the same time as issuing this decision on Admiral Loans’ involvement, I’m also concurrently issuing decisions on Ms H’s linked complaints about L and M.

In this case, Admiral Loans acted only as a lender, granting the loan for £15,000 and paying it to Ms H’s bank account with S, from where I understand the funds were transferred onto Ms H’s bank account with R, before they were transferred on again (from there) ultimately to scammers. This decision concerns only the £15,000 loan with Admiral Loans and whether

it's fair for Admiral Loans to hold Ms H responsible for this loan bearing in mind how it was taken out and granted.

Ms H has said this loan was taken out as a result of a scam and given the circumstances she's explained she has my sympathy. However, this doesn't automatically mean Admiral Loans should be unable to hold her liable for the debt.

Should Admiral Loans write off the loan because of how Ms H was scammed?

The first question is: did Ms H enter into this loan agreement, or was it done without her knowledge and/or consent as she alleges?

Having considered this carefully, I think it's most likely the loan was taken out in Ms H's name *without* her knowledge and consent, and she therefore did not enter into the loan agreement. I say this because Ms H has plausibly and persuasively explained how she was tricked into allowing scammers remote access to her devices and enabling them access to the information they needed to apply for the loan. Ms H is adamant she wasn't aware of the loan until *after* the scammers had applied for it, and that she didn't consent to the loan. And having reviewed the evidence around the WhatsApp messages sent between Ms H and the scammers, I'm satisfied this is most likely true.

I understand this loan was applied for on 29 March 2023 and it landed in Ms H's bank account with S on 3 April 2023. The WhatsApp messages on 29 March 2023 (and before) don't indicate Ms H was aware this loan application to Admiral Loans would be made. And the WhatsApp messages on 21 and 24 March 2023 indicate she didn't know about or consent to the prior loan applications with L and M. In particular I note the message Ms H sent to the scammers on 24 March 2023 at 3.03pm: *"You are not using my name. I have credit reports pinging my phone and emails asking questions. What gave [sic] you done to me?? Stressed is not the word I'd use. I'm horrified"*. And then at 3.05pm: *"Get those loans out of my name and paid off immediately"*. This was the same day as the loan with M was taken out. I've no reason to think Ms H wouldn't also have received such notifications about this loan with Admiral Loans on 29 March 2023. But Ms H receiving notifications about credit searches, and her receiving notification about the loan having been granted after it had been applied for, don't mean Ms H knew about the loan application when it was made, or that she consented to it. And in this case, for the reasons I've explained, I'm satisfied it's more likely than not that Ms H did not consent to this loan.

Since I'm satisfied Ms H most likely didn't apply for or consent to this loan, I don't think it would be fair for Admiral Loans to hold her to the terms of the loan agreement she never agreed to. So, Admiral Loans shouldn't hold Ms H liable for interest and charges, neither should there be a record of the loan on Ms H's credit file – so if there currently is, this should be removed. I'm aware that in response to my provisional decision, Admiral Loans has said it doesn't agree that the loan should be entirely removed from Ms H's credit file, and that in other cases it has been asked to remove this only once the capital balance has been fully repaid down. But I'm satisfied in a case like this where I'm not persuaded Ms H most likely consented to the loan, that it wouldn't be appropriate for the loan to show on Ms H's credit file. This isn't inconsistent with our general approach on such cases with circumstances like this; and it may be Admiral Loans is instead thinking of more typical redress for unaffordable lending. In any case, what Admiral Loans has said hasn't persuaded me to change my mind about this.

At the same time, I don't think Admiral Loans was to know at the time that the application had been made in Ms H's name without her consent. So, it doesn't automatically follow that it would be fair for me to tell Admiral Loans that it should not be able to pursue Ms H for any of the loan funds that are still outstanding, or that it should be required to refund to Ms H any

repayments to the loan she has already made (if any). I take on board what Ms H has said about how she was scammed. However, I can see that the £15,000 loan funds landed in Ms H's bank account with S as marked from "AFSL". And I don't think it's unfair to say at this point Ms H wasn't as careful as she reasonably ought to have been. Such that, if she hadn't consented to the loan, I think she ought to have taken reasonable steps at this point (but didn't) to verify the funds weren't from a loan in her name, before allowing or facilitating them to be sent on from her account with S first to her account with R and then to the scammers. In response to my provisional decision, Ms H has said she didn't receive her bank statements until the sixth of each month so she wasn't immediately aware of the source of the funds; and not only that, she was unwell at the time, and she didn't have the technical capability to disable or remove the remote access software. But I still think it's not unfair to say Ms H wasn't as careful as she should have been. Ms H might reasonably have tried shutting off the remote access software, or at least her devices, and looked into things further before allowing the transfers. This decision isn't about the prevention of those payments or recovery of them (because Admiral Loans played no part in that). And based on what I've seen and explained, I'm satisfied Ms H had reasonable use of the funds. I'm sorry she lost them to a scam but I can't reasonably say this was Admiral Loans' fault. This means I'm satisfied I can't reasonably tell Admiral Loans, on the basis Ms H was scammed, that it should not be able to pursue Ms H for any of the loan funds that are still outstanding, or that it should be required to refund to Ms H any repayments to the loan she has already made (if any).

Irresponsible lending

Ms H has questioned the affordability of the loan. And I've thought about this really carefully. Our usual approach, if we were to uphold a complaint about unaffordable lending, is that interest and charges should be removed but the consumer should still pay back the principal amount of the loan they had the benefit from. I've already said above this is essentially what I think should happen in this case due to Ms H not consenting to the loan. However, there may be some exceptional cases where we might think appropriate redress extends further than this, and I think this case is one of them.

In this case, I understand the loan was for £15,000, with an interest rate of 11.2% per year, which was repayable over 60 months at £323.70 per month. Ms H presented in the application as being age 63, employed full-time earning £35,000 gross per year, and as being a homeowner without a mortgage. Admiral Loans has said that it used an automated checking tool, which it says showed the income flowing into Ms H's account was deemed accurate; it ran a credit check; and it used Office for National Statistics ("ONS") data to calculate her expected living costs; and based on this, the loan was deemed affordable.

However, Admiral Loans was required to ensure that it didn't lend irresponsibly. It was required to complete reasonable and proportionate checks to satisfy itself that the loan would be affordable and that the borrower would be able to repay the loan in a sustainable way. And in this case, at the time of this loan application, Ms H had already very recently been accepted for at least two other loans (one from L and one from M) totalling £29,500 with combined monthly repayments, for those two loans, of £1,023.68. Admiral Loans wouldn't necessarily have known this if Ms H's credit file hadn't yet been updated to show this (although any searches those lenders carried out might have shown). But, in any event, irrespective of that, given the amount of the loan being applied for and the fact the term would extend past Ms H's state retirement age by almost three years, I would reasonably expect Admiral Loans' reasonable and proportionate checks to have included relatively detailed verification of her income and expenditure, greater than it did. This is particularly so here where Admiral Loans was aware that on the application Ms H had declared she didn't have a mortgage but its own credit checks demonstrated this to be inaccurate. Clearly,

relying on what the applicant had stated about their finances would be inappropriate to help determine affordability.

I can't be sure exactly what evidence and information Admiral Loans would have obtained. In the absence of it having done this, I've reviewed copies of Ms H's bank statements from around the time of the lending. I'm not suggesting Admiral Loans was required to review bank statements, but I think they give a good indication of what it would most likely have discovered about Ms H's financial circumstances had it completed reasonable and proportionate affordability checks. Admiral Loans ought to have known that Ms H had a monthly mortgage payment of £386. The statements show that Ms H's essential monthly living costs, including her mortgage, were broadly £1,350 and I think this is likely to be what Admiral Loans would have discovered had it sought to verify her expenditure in some way. When including the scheduled monthly loan repayment of £323 for the loan with Admiral Loans, this would take this to £1,673.

I understand Admiral Loans thought Ms H's net monthly income was £2,318. But if it had sought to appropriately verify this – which I'll say again, as I think it should have – it would have likely found out that this wasn't right. Instead, I think it would have likely discovered her income to be around £1,525 each month. This is less than the outgoings I've outlined above, and therefore I consider Admiral Loans lent irresponsibly to Ms H in this case.

So, in this case, I'm satisfied Admiral Loans lent irresponsibly. Ms H was scammed. And given her current financial situation, and Admiral Loans' failings, I'm satisfied to ask Ms H to repay all of the loan balance (even excluding interest and charges) would be unfairly onerous and unsustainable. It appears there is no reasonable prospect of her being able to pay back the capital amount in the medium to long term. Her financial situation is such that it appears, at best, that she has around £175 available each month (and it may be less than this) to pay towards this loan and two other loans that were taken out in her name as a result of the scam. In total, this would require her to repay just under £45,000 in capital to all three lenders (around a third of which to Admiral Loans). With her current financial circumstances, it will likely take her almost 22 years to pay this back and I'm mindful that Ms H is approaching state retirement age, meaning that it is very likely her financial circumstances may drastically change. So, I do think, therefore, we have a case here whereby it would be onerous, and unreasonable, to expect Ms H to reasonably repay the majority of the remaining loan balance with Admiral Loans. At the same time, I think she probably has sufficient disposable income each month to at least pay some amount each month to repay some of the principal loan balance. So, taking everything into account, I think in this case that a fair outcome would be for the principal loan balance to be reduced down to £5,000, and for Admiral Loans to only pursue Ms H for repayment of this amount. Although, naturally, I'd expect Admiral Loans to agree to a reasonable repayment plan with Ms H, and to be sympathetic to any financial constraints that may materialise. I appreciate that in her response to my provisional decision, Ms H has asked that my direction expressly state that Admiral Loans should "offer as much forbearance as possible to ensure a sustainable payment solution". But I'm satisfied what I've already said about this sufficiently addresses this.

I'm aware that in response to my provisional decision, Admiral Loans has said that in other similar cases, all it has been asked to do is to remove interest and charges. It's also said that there's no clear rationale as to why it should reduce the balance down to £5,000; and that it is concerned that by agreeing to do so, it would be setting a precedent. However, I've already explained that there may be some exceptional cases where we might think appropriate redress extends further than just removing interest and charges, and that I'm satisfied this is such a case. Deciding the appropriate amount of the loan to write off (whether that be part of it, or all of it) isn't an exact science. And each case will turn on its own individual merits. However, for the reasons I've already explained, I'm satisfied that in

the individual circumstances of this case fair redress is for the loan balance to be reduced down to £5,000 as I've explained. Admiral Loans' points haven't changed my mind about this.

My final decision

For the reasons explained, I uphold this complaint in part and I direct Admiral Financial Services Limited trading as Admiral Loans to:

- remove all interest and charges on the loan;
- amend Ms H's credit file to remove any information about the loan and searches;
- write off the loan down to an amount of £5,000;
- not pursue Ms H from the date of settlement for repayment of more than £5,000.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 30 May 2024.

Neil Bridge
Ombudsman