

The complaint

Mr E is complaining about Madison CF UK Limited trading as 118 118 Money because he says it lent irresponsibly by providing him with a loan he couldn't afford.

What happened

In July 2022, 118 118 Money approved Mr E's application for a loan of £2,000. The interest rate was 79.9% and required monthly repayments of £144 over two years.

After the complaint was referred to me, I issued my provisional decision setting out why I believed it should be upheld. The reasons for my view were as follows:

Before lending to Mr E, 118 118 Money was required to carry out appropriate checks to ensure the repayments were affordable and sustainable. To decide whether this requirement was met, the key questions I need to consider are:

- Did 118 118 Money complete reasonable and proportionate checks to establish that Mr E would be able to repay the loan in a sustainable way?*
- If so, was the decision to lend fair and reasonable?*
- If not, what would reasonable and proportionate checks have discovered, and would the decision to lend have been fair and reasonable in light of that information?*

The rules, regulations and good industry practice in place at the time the loan was approved required 118 118 Money to carry out a proportionate and borrower-focused assessment of whether Mr E could afford the repayments. This assessment also had to consider whether the loan could be repaid sustainably. In practice this meant 118 118 Money had to satisfy itself that making payments to the loan wouldn't cause undue difficulty or adverse consequences. In other words, it wasn't enough to simply think about the likelihood of him making payments, it had to consider the impact of the repayments on Mr E.

The affordability assessment and associated checks also had to be proportionate to the specific circumstances. What constitutes proportionate checks depends on a number of factors including, but not limited to, the particular circumstances of the consumer (for example their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount, type and cost of the credit being considered. Even for the same customer, a proportionate check could be different for different applications.

In general, I think a reasonable and proportionate assessment should be more thorough:

- the lower the customer's income, reflecting that it could be more difficult to make repayments from a lower level of income;*
- the higher the amount due to be repaid, reflecting that it could be more difficult to meet a higher repayment from a particular level of income;*

- *the longer the term of the credit, reflecting the fact that the total cost is likely to be greater and the customer is required to make payments for an extended period; and*
- *the greater the instances and frequency of credit, and the longer the period of time during which a customer has been given credit, reflecting the risk that repeated refinancing may signal borrowing has become unsustainable.*

There may also be other factors that could influence how detailed a proportionate check should have been for a given application, including any indications of borrower vulnerability or foreseeable changes in future circumstances.

118 118 Money has described the information it gathered to assess whether Mr E's loan was affordable before it was approved. This included:

- *information contained in his application, including residential status, employment status and his income, which was separately verified;*
- *information obtained from a credit reference agency (CRA), giving details of his existing credit arrangements and any past issues with credit, including missed payments and defaults; and*
- *an expenditure assessment using a combination of modelled data for key expenses, along with actual data from the CRA about the cost of his existing credit arrangements.*

118 118 Money maintains its affordability assessment was proportionate to the loan being given and demonstrated it was affordable.

After carefully reviewing the information 118 118 Money obtained, I think there were factors that should have prompted it to carry out further checks before approving Mr E's loan and I don't agree the affordability assessment based partly on modelled statistical data, rather than his actual circumstances, was reasonable and proportionate in this case. In my view, a combination of the following factors should have prompted further investigation:

- *Mr E's existing non-mortgage debt (£21,458) was relatively high compared to his annual income of around £34,000;*
- *he'd taken only recently taken a large loan for £10,000 in February 2022, only five months prior to his application to 118 118 Money; and*
- *he'd also taken a new credit card with a limit of £2,000 in May 2022, less than two months before his application to 118 118 Money, and had already borrowed up to the limit.*

I believe this information suggests Mr E was already heavily indebted. This, along with the fact he'd only recently taken on a considerable amount of additional debt, meant further checks were required to complete a proportionate affordability assessment.

I can't know exactly what further checks 118 118 Money might have carried out at the time, but I think a consideration of Mr E's actual income and expenditure would have been reasonable. So we've obtained copies of his bank statements for the three months prior to the lending to establish what information could reasonably have been discovered.

A review of the statements shows Mr E carried out a number of transactions with CB Payments Ltd (or Coinbase), an online platform for trading in crypto currency. He says he was purchasing crypto currency to gamble using online poker sites. In the months of April, May and June 2022, I counted a total of 76 payments to Coinbase with a combined value of £10,400, which indicates Mr E was gambling extensively during this time.

If 118 118 Money had discovered this information, it's my view that it shouldn't have lent a further amount to Mr E as there was a strong likelihood he was vulnerable and would struggle to keep up with repayments.

In summary, if 118 118 Money had adequately assessed whether the loan repayments were affordable and sustainable, it's my view it shouldn't have lent to Mr E. It's for this reason that I'm upholding this complaint.

Both parties confirmed they had no further points to make in response to my provisional 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.

As neither party has made any further submissions in response to my provisional decision], my findings haven't changed from those I set out previously.

Putting things right

The principal aim of any award I make must be to return Mr E to the position he'd now be in but for the errors or inappropriate actions of 118 118 Money. But that's not entirely possible here as the lending provided can't be undone.

Because I don't think 118 118 Money should have lent to Mr E, I don't think it's fair for him to pay interest or charges on the amount borrowed. But he has had use of the money that was lent, so I think it's fair he repays the amount borrowed (without the addition of interest or charges).

To put things right, 118 118 Money now needs take the following steps:

- Calculate the total of all Mr E's payments towards the loan, including all interest, fees, charges and insurances (not already refunded).
- If this exceeds the £2,000 borrowed, any excess above £2,000 should be paid to him with simple interest at 8% per year from the date of each overpayment to the date of settlement.

HM Revenue & Customs (HMRC) requires 118 118 Money to deduct tax from any interest. It must provide Mr E with a certificate showing how much tax has been deducted if he asks for one. If 118 118 Money intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

- If the total of all Mr E's payments doesn't exceed the £2,000 borrowed, 118 118 Money should arrange an affordable payment plan with him for the shortfall.
- Remove any adverse information recorded on Mr E's credit file relating to this loan, once any outstanding balance has been repaid.

If 118 118 Money no longer owns the debt, it should liaise with whoever does to ensure any payments Mr E has made since moving the account are factored into the calculation of the compensation that's due or the balance that remains outstanding.

I'm satisfied this represents a fair and reasonable settlement to this complaint.

My final decision

For the reasons I've explained, I'm upholding Mr E's complaint. Subject to his acceptance, Madison CF UK Limited trading as 118 118 Money should now put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 31 May 2024.

James Biles
Ombudsman