

## **The complaint**

Mr J says Creation Consumer Finance Ltd irresponsibly lent to him.

## **What happened**

Mr J took out a loan for £25,000 over 60 months on 16 October 2022. The monthly repayments were £558.57 and the total repayable was £33,514.20. He believes Creation cannot have checked his credit file as he would never have been able to repay this loan alongside his existing debt.

Creation said Mr J's application passed all the appropriate eligibility and affordability checks.

Our investigator upheld Mr J's complaint. He said Creation's checks were not proportionate and better checks would have shown the loan would not be affordable for Mr J.

Creation disagreed with this assessment and asked for an ombudsman's review.

## **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.

We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website and I've taken that into account when considering Mr J's complaint.

Creation needed to take reasonable steps to make sure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr J could afford to repay what he was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts, how much borrowing Mr J had elsewhere and Mr J's income and expenditure.

This means to decide this complaint I need to assess whether Creation carried out proportionate checks; if so, did it make a fair lending decision based on the results; and if not, what would better checks have shown.

Creation said that it conducted checks to ensure that the credit would be affordable for Mr J when he took out the loan. It said that Mr J declared he had an annual income of £47,700 with one dependent. Its credit checks showed he had £719 of unsecured monthly commitments, £328 of secured commitments, £355 rent/mortgage and £484.92 of repayments on credit cards. Its calculation showed that Mr J would have a net monthly income of £3980 versus monthly commitments of £2526.16 (including the new loan instalment of £558.57) meaning he had a disposable income of £1453.84 each month. On this basis it concluded the loan would be affordable for Mr J.

I am not persuaded these checks were proportionate. Creation's assessment showed a high

level of disposable income, but I have not seen any evidence that Creation had verified Mr J's declared income or considered his essential living costs. I also think it ought to have been concerned that he would be spending so much of his income on his credit commitments – something the industry knows can go on to cause financial difficulties.

Given the significant amount that Mr J was borrowing and the size of the monthly repayments, combined with the evidence Creation had about his significant existing borrowing, I think Creation ought to have done more than it did to establish the credit was affordable for him. I think it should have asked Mr J more about his income and expenditure and sought evidence to verify this.

Had it done so, I think it would have considered that the loan was unaffordable for Mr J.

To help understand Mr J's circumstances at the time of the loan we asked to see Mr J's bank statements from the months leading up to the loan application, as well as a copy of his credit file. I am not saying Creation had to do exactly this but it is a reliable way for me to see what better checks would most likely have shown the lender.

Mr J's actual monthly income prior to applying was £3,930 and his credit commitments (assuming a sustainable repayment rate of 5% of revolving balances) were £1563.85. So taking on this loan meant he would need to spend around 55% of his income each month to repay his debts – excluding his mortgage. In addition Mr J's bank statements show he did not have the level of disposable income Creation had assumed, indeed he had less than the value of this loan's monthly repayment so it was not affordable. He was also reliant on his overdraft facility each month within just a few days of his payday.

So, in the round, had Creation completed proportionate checks I think it ought to have realised the loan was not sustainably affordable for Mr J and there was a high risk he would either need to borrow to repay or suffer some other adverse financial consequence.

It follows I find Creation was wrong to lend to Mr J.

### **Putting things right**

Creation should not have provided the loan to Mr J. To settle this complaint Creation should do the following:

- Add up the total amount of money Mr J received as a result of having been given this loan.
- Subtract the repayments Mr J has made from this amount.
- If this results in Mr J having paid more than he received, any overpayments must be refunded along with 8% simple interest\* calculated from the date the overpayments were made to the date of settlement.
- If any capital balance remains outstanding, Creation should arrange an affordable payment plan with Mr J.
- Remove any negative information recorded on his credit file regarding the loan once the outstanding balance has been cleared.

\*HM Revenue & Customs requires Creation to deduct tax from any award of interest. It must give Mr J a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

### **My final decision**

I am upholding Mr J's complaint. Creation Consumer Finance Ltd must put things right as set

out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 11 January 2024.

Rebecca Connelley  
**Ombudsman**