

The complaint

In summary, Miss C has complained that Admiral Financial Services Limited, provided her with a loan, that she wasn't able to afford.

What happened

In May 2022, Admiral provided Miss C with a loan for £10,000. The monthly payment was £308.34 payable over 36 months. The total amount payable was £11,100.24.

In its response to Miss C's complaint, Admiral explained why it thought the loan was affordable for her, and that it wasn't upholding her complaint. It explained the checks it had carried out including using ONS data.

Miss C's concerns were reviewed by one of our investigators. They explained why they thought the checks Admiral had carried out when it was assessing whether Miss C could afford the loan, weren't reasonable and proportionate. And they went on to explain why they didn't think the loan should have been provided to Miss C.

In response, Admiral explained why it disagreed with the rationale the investigator had used when explaining why they thought the complaint should be upheld. It said it had acted in good faith and had verified the information Miss C provided in her application, using its automated tools. It believed Miss C had provided inaccurate and misleading information during the application process. If she had provided accurate income information, it thought the outcome of her application could have been different. It asked the investigator to review the decision in light of the comments it had made.

In response, the investigator explained why they hadn't changed their opinion that the complaint should be upheld. In summary, they referred to this service's approach to unaffordable and irresponsible lending complaints, that could be found on our website, and they said that every case was assessed on its own merits.

Admiral responded and explained that it had verified Miss C's income using an industry used tool, which looked at all inflows into an account not just income. Having reviewed the statements provided, it thought the inflows into Miss C's current account were more than the income disclosed which provided a green result. It said this might suggest Miss C had secondary accounts which might contain additional income flows. It said it would reconsider its position if statements for other accounts were provided for the same period, and if further details of the cheque deposits shown on the statements were provided.

It went on to say that the verification tool it used didn't highlight any indebtedness concerns, or any concerns in respect of her credit card utilisation over the past three and 12 months. So, it didn't think additional checks were required. And in a 12-month period her total balances had increased by just £318, which it thought was minimal and didn't warrant further investigation.

In addition, it didn't agree with the approach of assessing affordability based on Miss C's full revolving credit balances being utilised. It said it had used a high assumption in relation to

Miss C's rent and debt repayments. Although not all bills were visible, regular bills for water, energy and insurance were visible which were below the assumption it had made. It said there were no regular transactions for other monthly costs, and it thought Miss C had a secondary account. It also said she hadn't entered arrears which suggested she was managing her payments.

The investigator asked Miss C for further information in respect of some of the entries on the bank statements she had provided. Miss C explained that an account from which a transfer of £100 had been paid wasn't hers and she told this service the reason for the transfer. She explained where the cheque deposits made in February and the other bank deposits into the account had come from. And she explained that a deposit of £1,500 from her mother was to help pay a bailiff's debt.

In light of the responses they received from Miss C, the investigator told Admiral their opinion remained the same. Admiral didn't agree with the investigator's assessment of the complaint and asked for the case to be reviewed by an ombudsman. So, the case has been passed to me to 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.

For the avoidance of any doubt, I have considered the responses provided by both Admiral and Miss C to the investigators assessment.

We've set out our approach to considering unaffordable and irresponsible lending complaints on our website - including the key relevant rules, guidance, good industry practice and law. And I've considered this approach when deciding Miss C's complaint.

Having done so, I've decided to uphold Miss C's complaint. I'll explain why.

There are several questions that I've thought about when deciding if Admiral treated Miss C fairly and reasonably when it provided her with the loan.

- 1) Did Admiral complete reasonable and proportionate checks to satisfy itself that Miss C would be able to repay her loan in a sustainable way?
- 2) If not, what would reasonable and proportionate checks have shown at the time?
- 3) Ultimately, did Admiral make a fair lending decision?
- 4) Did Admiral act unfairly or unreasonably in some other way?

Did Admiral complete reasonable and proportionate checks to satisfy itself that Miss C would be able to repay her loan in a sustainable way?

The rules that Admiral had to follow, required it to carry out checks that would enable it to reasonably assess, whether Miss C could afford to repay the loan she was wanting to take out. This is often referred to as an "affordability assessment".

The rules don't set out what specific checks it needed to carry out, but they did set out that those checks needed to be proportionate to the circumstances of the application. The checks Admiral needed to carry out as part of its affordability assessment, had to be "borrower focussed". What I mean by this, is that the checks needed to consider whether paying the loan back would cause Miss C any difficulties or have any adverse consequences for her.

I think what this meant in practice, was that the scope and extent of Admiral's checks needed to reflect the nature of the loan, bearing in mind things such as the amount of credit, the interest rate, the duration of the loan, the monthly and total amounts repayable, and any indications of customer vulnerability. This isn't an exhaustive list.

And because of the above, I think reasonable and proportionate checks needed to be more thorough if Miss C had a low income. This would reflect that it could be more difficult for her to make the loan repayments with a low income.

Admiral's checks would also need to be more thorough the higher the amounts Miss C had to repay, as it would be more difficult to make higher loan repayments on a given income. The length of the loan term would also be relevant, partly because where the loan duration is longer, the total cost of credit was likely to be higher. It would also be relevant because there is greater risk of a negative change in circumstances affecting Miss C's ability to repay, where repayments need to be sustained over a longer period.

With these principles in mind, I've thought about whether Admiral completed reasonable and proportionate checks to satisfy itself that Miss C would be able to repay her loan in a sustainable way.

In summary then, the circumstances of the loan application are as follows:

- Miss C was applying for a £10,000 loan repayable over 36 months, which had an APR of 7%. The loan repayments were £308.34 a month.
- Miss C was recorded by Admiral as having a monthly income of approximately £2,766 when the loan was taken out.
- The checks Admiral carried out showed that Miss C had seven revolving accounts and two live loans. The revolving credit account balances were £9,121 and the loan balances was £9,488.

Individually and taken together, there are several risk indicators here, in that Miss C already had in my opinion, substantial outstanding credit of over £18,000 and was intending to take out further credit by way of a £10,000 loan. So, I think it was important for Admiral to have conducted checks which gave it a thorough understanding of Miss C's financial position, and to scrutinise the information it gathered carefully, asking follow up questions where necessary, before agreeing to lend.

Admiral has said it did carry out some verification checks to validate the information Miss C gave it in her application, before it agreed to provide her with the loan. This seems to have been based on Miss C's completed application form, credit file, and verification of the information she provided using automated tools. And it has said that based on the checks it carried out, it thought the loan was affordable for Miss C. So, I've gone on to consider if the checks it carried out were reasonable and proportionate, and whether it made a fair lending decision in respect of that loan.

Admiral has suggested that the income information Miss C provided might not have been accurate taking into account the information shown on her bank statements. I'm not making any finding as to whether or not this was the case. But the CONC rules under which Admiral operated at this time, do anticipate that borrowers may not always provide accurate information. These rules require lenders to take proportionate steps to establish whether a loan applicant can afford the loan – including, in most circumstances – taking steps to verify customer declarations about income and expenditure.

Whilst I accept that general statistical data can in some circumstances be useful, I think the information Admiral had about Miss C's financial circumstances should have led it in this particular case, to interrogate Miss C's financial circumstances in a borrower focussed fashion rather than relying on statistical data and automated tools.

This is because in my opinion there were several flags that should have alerted Admiral to carry out further checks, taking into account the information it obtained when it carried out its affordability checks. I think the information contained in the credit report it obtained, should have been considered in a wider context, rather than just as to whether or not it showed any obvious adverse information, such as missed or late payments.

I say this because the information provided by Admiral, shows that prior to the loan being approved, the total balances shown on the credit report it used, indicated an outstanding balance of £9,121 in respect of Miss C's revolving credit accounts, and £9,488 in respect of her loan accounts. And the loan it was considering offering her, would add a further £10,000 of unsecured credit to her total debt.

No details of the monthly payments Miss C had made in respect of the revolving credit have been supplied with the information provided by Admiral. I think that if Miss C was to make sustainable payments towards the outstanding balances on the revolving credit accounts shown on the credit report that Admiral obtained, that would in my opinion, likely equate to a level of payment of the credit balances above the minimum monthly payments. Although the CONC rules don't set out specific amounts, I think in the circumstances of this particular case, a figure of 5% wouldn't be unreasonable, which would equate to payments in respect of Miss C's existing revolving credit commitments of approximately £453 a month. Together with the monthly payment on the Hire Purchase agreement shown on the credit report; this would result in a figure of around £766 a month, which equated to approximately 27% of the net monthly income Admiral says it verified Miss C as having, being applied to the repayment of credit.

I think this constitutes a significant percentage of her income being applied to the repayment of credit. And the monthly payment on the loan Admiral was proposing to provide to Miss C of £308.34, would increase this to approximately 38% of her income. In my opinion this was an indicator of potential over-indebtedness on the part of Miss C, which should have led Admiral to question whether the proposed loan was sustainably affordable for her. And in one of its responses to the investigator's view, Admiral acknowledged that Miss C's debt balances had increased by £318, which it thought was minimal and didn't warrant further investigation. I disagree. It seems to me this indicated that Miss C's credit card debt wasn't reducing but was increasing over a 12-month period prior to taking out the loan. And I think this should have been an additional consideration on its part in respect of carrying out additional checks.

So, taken together, I think the information Admiral had about Miss C, should have prompted it to look more closely at her financial circumstances and carry out further borrower focussed checks; to ensure that the further lending it was proposing to provide her with, was sustainably affordable for her.

What would reasonable and proportionate checks have shown at the time?

I think Admiral should have ensured that the scope and extent of its checks were adapted to the circumstances of Miss C's application. This was a sizeable loan being taken out by an individual who had in my opinion a significant amount of existing credit. Given this and the information Admiral had about Miss C's other borrowing, further checks would in my opinion, need to verify her income and expenditure, in addition to the checks Admiral had already

carried out. And this was in my opinion, needed to establish that she was able to afford the loan.

Miss C has provided copies of her bank statements for the three months prior to this loan being taken out. And I think these provide insight into what reasonable and proportionate checks might have shown.

The statements show discrepancies with the information recorded on Miss C's application in respect of her income, and the information Admiral said was verified. For example, the salary income credits shown on Miss C's statements equate to a monthly average of £1,667. This is significantly different to the figure Admiral says it verified. Admiral has explained that the tool it uses to verify income and outgoings would record all inflows into Miss C's account, and it has queried whether Miss C had another bank account. And it has also queried some of the entries on the statements.

The investigator raised these issues with Miss C and asked her to explain the entries on the statements. I am satisfied that the responses provided by Miss C are plausible and persuasive. I say this because for example, there is a credit of £1,500 into her bank account on the March statement. The following day there is a payment out for the same sum, and the payee reference corresponds with what Miss C has said that payment was in respect of. In respect of her response regarding bank credits, I also think her comment about putting shopping and diesel on one particular credit card, so she didn't have to pay until the next month as she was struggling is believable, as in my experience, that isn't something uncommon for people in Miss C's position to do.

Also, the other answers she has given, don't seem implausible to me. And I've not seen sufficient evidence that persuades me that Miss C had another bank account. What the entries on the statements do indicate to me, is that Miss C was receiving financial support from relatives/friends to help her meet her bills. And I think that if Admiral had carried out reasonable and proportionate borrower focussed checks; it would have identified that Miss C was struggling financially.

Did Admiral make a fair lending decision?

In its file submission, Admiral said that in its affordability calculation, it had calculated Miss C's monthly outgoings including the payment for the new loan it was proposing to provide, as totalling £2,239.37. The average net income shown on Miss C's bank statements of £1,667 indicates to me that the loan was unaffordable.

I think the information Admiral already had about Miss C, together with the information it would have seen if it had carried out reasonable and proportionate checks, by for example looking at her bank statements, should all have led it to conclude that it was unlikely Miss C would be able to sustainably afford to make the monthly payments for this loan.

The utilities, childcare and payments in respect of outstanding credit (not including the credit card that she said she used to pay for shopping and diesel) shown on the statements, indicate to me that the majority of her income was being used to make those payments. And those payments didn't include expenditure on food, household shopping and diesel that would have been additional expenditure that she has said she used another credit card to pay for. The statements indicate to me that Miss C wasn't able to meet her existing expenditure utilising her own income. And that she was reliant on the support of relatives/friends to help her pay her bills.

The fact that Miss C hasn't entered into arrears, doesn't persuade me that her circumstances that I have set out above, indicated that she should have been provided with

the loan in the first place. For the reasons I've set out, I think in the particular circumstances of Miss C's case, Admiral should have concluded that it wasn't appropriate to provide her with the loan.

Putting things right

I think it is fair and reasonable for Miss C to repay the principal amount that she borrowed, because she had the benefit of that lending. But she has paid interest on a loan that shouldn't have been provided to her. So, I think Miss C has lost out and Admiral should put things right for her. Admiral should:

a) Remove all interest, fees and charges applied to the loan from the outset. Any payments made by Miss C should then be deducted from the new starting balance. If the payments Miss C has made total more than the amount she was originally lent, then any surplus should be treated as overpayments and refunded to her with 8% simple interest* calculated on any overpayments made, from the date they were paid by Miss C, to the date the complaint is settled.

b) If there is still an outstanding balance on the loan, then Admiral should agree an affordable repayment plan with Miss C, bearing in mind the need to treat her positively and sympathetically in those discussions, and taking into account her current ability to repay the loan.

c) Remove any adverse information recorded on Miss C's credit file as a result of the loan once the outstanding balance has been repaid. *HM Revenue & Customs requires Admiral to deduct tax from this interest. Admiral should give Miss C a certificate showing how much tax it's deducted, if she asks for one.

My final decision

For the reasons I've set out above, my final decision is to uphold Miss C's complaint about Admiral Financial Services Limited. If Miss C accepts my decision it needs to calculate and pay Miss C compensation, using the methodology I've set out above. Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 12 April 2024.

Simon Dibble
Ombudsman