DRN-4791340

The complaint

Miss M complains that Clydesdale Financial Services Limited, trading as Barclays Partner Finance ("BPF") irresponsibly granted her a fixed sum loan agreement she couldn't afford to repay.

What happened

In August 2020, Miss M was approved for a fixed sum loan agreement arranged by BPF. The capital amount she borrowed was £5,969. Miss M was required to make a total of 60 monthly payments of £117.96. The total repayable under the agreement was £7,177.60.

In January 2024 Miss M contacted BPF to complaint that BPF didn't complete adequate affordability checks. She says if it had, it would have seen the agreement wasn't affordable. BPF didn't agree. It said it carried out a thorough assessment.

Our investigator though BPF ought not to have approved the lending and so upheld the complaint.

As BPF didn't agree the complaint has been passed to me.

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.

BPF will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don't consider it necessary to set all of this out in this decision. Information about our approach to these complaints is set out on our website.

Our investigator set out in some detail why, having considered the information BPF used to make its lending decision and having had the opportunity to review Miss M's bank statements, she didn't think BPF acted fairly when agreeing to lend to Miss M.

Having reviewed the complaint in detail, and having asked Miss M to clarify several points, I've decided to uphold this complaint on broadly the same basis as our investigator. I will explain why.

Before the finance was provided, BPF has explained that it carried out affordability checks. In her application Miss M said she had an annual income of £20,000. BPF's affordability checks showed that Miss M was paying a mortgage and owed around £24,000 in other credit. Allowing for the mortgage being paid on a joint basis, Miss M was having to find £689 each month to cover her mortgage, credit card, store card and loan repayments. The credit check didn't reveal any recent historical issues with credit, such as account defaults, significant levels of arrears or county court judgments.

But I don't think those checks alone were necessarily enough to give an accurate picture. I say this not least because Miss M was taking on a five year repayment commitment that needed to be both affordable and sustainable. I can't see that BPF took steps to verify Miss M's income. Also, I haven't seen details of its affordability check which would at least have given an indication of whether, most likely based on statistical information, the loan looked to be something that Miss M could repay sustainably. Nor can I see that BPF took other steps to check or ask Miss M about her regular monthly expenditure. A credit check on its own wouldn't have shown what Miss M's regular living expenses were. Without having a fuller picture about her regular committed expenditure BPF wouldn't have gained a good enough understanding of whether the agreement was likely to be affordable. I therefore don't consider that BPF's checks were reasonable or proportionate.

I don't know exactly what BPF would have found out if it had asked Miss M for more information about her expenditure. But in the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Miss M's bank statements as to what would most likely have been disclosed had BPF asked at the time.

I've noted that in fact Miss M was receiving around £690 each month by way of income and state benefit she was entitled to. Additionally she was receiving a student loan of £1,150 three times a year for the purpose of supporting whilst she was studying. So it looks like she was receiving a total of around £980 per month. This is almost £500 less than the net figure of around £1,450 she'd be earning based on the annual income figure of £20,000 per annum that was in her application.

In response to my enquiry about her mortgage payments, Miss M says that at this time she had a mortgage payment holiday in place due to the impact of the pandemic. So she wasn't contributing towards the mortgage, but would be when the payment holiday came to an end. She also told me that her partner was responsible for paying household costs which she contributed to each month. From what I've see this worked out at about £150 per month.

BPF has pointed out that Miss M appeared to have sufficient income to pay for discretionary and leisure spending. But as I've explained, she wasn't having to contribute towards her mortgage at this time. BPF has also queried transfers being made back to Miss M. Miss M has confirmed that she was receiving monthly payments of £150 by way of sums owed being paid back by a family member.

Overall, I can see that Miss M's expenditure was exceeding her income. Taking all this and the significantly reduced level of income she was in fact receiving each month, I think Miss M was likely to have been left with minimal, if any, disposable income. I say this because she would have to meet her credit commitments of £530 plus mortgage payment of £159, plus her contribution towards household costs of £150 alongside the new loan repayments, of £117. This produces a total of £956 – almost as much of her income. This suggests to that Miss M's financial situation at this time was finely balanced at best and was at real risk of deterioration.

From what I've seen about her actual income and committed monthly expenditure, Miss M was unlikely to be in a position to afford to take on the additional expense of monthly repayments towards the new agreement over a 60 month duration. Had BPF completed proportionate checks, I think it's likely it would have discovered this too. BPF therefore didn't make a fair lending decision.

I've considered whether the relationship between Miss M and BPF might have been unfair under S.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed should be carried out for Miss M results in fair compensation for her in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right – what BPF needs to do

To settle Miss M's complaint, BPF should:

- Deduct all the repayments Miss M made from the total amount she received through the loan.

a) If this results in Miss M having paid more than she received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement).*

b) If any capital balance remains outstanding, then BPF should attempt to arrange an affordable and suitable payment plan with Miss M.

- Once the capital has been repaid, remove any adverse information recorded on Miss M's credit file relating to loan.

*HM Revenue & Customs requires BPF to take off tax from this interest. BPF must give Miss M a certificate showing how much tax it's taken off if she asks for one.

My final decision

My final decision is to uphold this complaint and direct Clydesdale Financial Services Limited to put things right in the manner set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 30 July 2024.
Michael Goldberg
Ombudsman