

The complaint

Ms F has complained that North Edinburgh and Castle Credit Union Limited (“Castle Credit”) acted irresponsibly when it approved her application for a loan in early 2023.

Background

Ms F applied for a £10,000 loan with Castle Credit in January 2023. She said the purpose of the loan was for debt consolidation. The term of the loan was 36 months, and she was required to repay just under £405 a month. Ms F has explained that at the time she was gambling in a compulsive and harmful way and that if the Credit Union had checked her bank statements or used the Open Banking systems as part of its credit worthiness checks it would have realised her spending was getting out of control and wouldn't have provided her with access to more credit. She has asked that the business refund all the interest and charges she's paid towards the loan, along with 8% simple interest, write off the remaining balance, remove all adverse information linked to it from her credit file and pay her compensation for the distress caused.

Castle Credit has said that at the time Ms F applied for the loan it did run various credit worthiness checks including checking her existing credit obligations against the three main credit reference agencies. Ms F had declared her annual income as £78,595 and this was verified using the Office of National Statistics (ONS) data which was also used to calculate her monthly expenditure. Having reviewed Ms F's existing credit obligations Castle Credit noted she had one historic default which had been added over five years previously and no County Court Judgements or signs of arrears or missed payments on any of her existing accounts. So, it felt that the loan, which was going to be used to consolidate some of the existing credit accounts Ms F had, would be affordable and sustainable for her. And while it accepts it didn't rely on Open Banking or review Ms F's bank statements before approving the loan it pointed out there is no obligation on it to do that. So, it didn't think it had done anything wrong and it didn't uphold the complaint.

Ms F disagreed with Castle Credit's findings and brought her complaint to our service. One of our investigators looked into already. She found that the checks Castle Credit did were sufficient and there was no obligation on it to do the sorts of checks Ms F felt it ought to have done. So, she didn't uphold the complaint.

Castle Credit didn't comment on the investigator's findings, but Ms F did. She said that even though the loan may have appeared to be affordable to her Castle Credit should have reviewed her bank statements to ensure the information on the credit file was a genuine reflection of how she was managing her finances. She felt that if these sorts of checks had been completed it would have become apparent that she wasn't managing her finances well, was using her overdraft every month and was gambling in a way that was causing her harm.

As Ms F didn't agree with the investigator's findings she asked for the case to be reviewed by an ombudsman and so it's been passed to me for consideration.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance, and good industry practice – is set out on our website.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments, the total cost of the credit and what it knew about the consumer at the time of application.

Ms F has said she accepts that when she applied for the loan in January 2023 it would have appeared she was in a stable financial position. She was in full time employment and in receipt of an income well above the national average. However, she has explained that her circumstances hadn't always been that secure and that she had previously earned significantly less and had an over reliance on high-cost credit, which she has said was used to fund her gambling habit. She feels that there should be an obligation on lenders to check people's bank statements or to use Open Banking cross referencing checks before approving credit applications as she feels these sorts of checks would provide a more detailed insight into how people manage their finances and whether or not any additional credit would be genuinely affordable.

I'd like to thank Ms F for being so open and honest in her submissions to our service. Addiction is a very challenging thing to overcome, and I realise that it is enormously difficult to discuss such personal struggles with others. So, I appreciate how forthright she has been.

However, I can only consider her complaint in regard to her circumstances in January 2023 and what the obligations on Castle Credit were at that time. And while I accept Ms F has since ended up in a repayment plan with Castle Credit and has struggled to meet her monthly repayments I have to base my decision on the information that it reviewed at the time of her application, and whether or not there was any indication, in January 2023, that the loan was unaffordable or unsustainable for her.

As mentioned above there are no fixed checks that businesses have to complete when reviewing an application for credit. The rules set by the regulator merely state that checks should be proportionate to the type of lending and term of the loan. But there's no requirement on businesses to review specific things such as bank statements, pay slips or to use Open Banking. So, I can't say that Castle Credit was wrong to not run those sorts of checks because there was no regulatory requirement to do that.

When Castle Credit reviewed Ms F's credit file it found that all of her existing open accounts were in good order. There was no evidence of missed payments or arrears and while there was one default on her file it was over five years old. So, it looked as though Ms F was managing her existing credit well. And the purpose of the loan she had applied for was debt consolidation so Castle Credit would have had an expectation that some of the existing debt would be repaid and cleared once Ms F received the funds. And she has confirmed this did happen. So, I can't see anything on the credit file that would have prompted Castle Credit to have concerns or wonder if Ms F was becoming overly reliant on credit or mismanaging her existing accounts.

Likewise given Ms F's average monthly take-home pay at the time was approximately £4,500, and her average monthly outgoings were estimated using ONS data to be roughly

£3,190, it also seemed as though Ms F has sufficient disposable income remaining to meet the loan repayments each month without any concern. So again, based on that information I can't say there was anything that should have prompted Castle Credit to think it needed to run additional checks as there wasn't anything that would have flagged Ms F as potentially financially vulnerable.

That is not to say that I don't believe Ms F when she says that by January 2023 things had started to spiral for her and she was losing control of her finances. But I can't uphold her complaint on the basis that Castle Credit didn't ask to review her bank statements or use Open Banking because there's no regulatory obligation on it to do that. Instead, I can only look at the checks it run, and decide whether or not I think it missed any indication that the loan may be unaffordable or unsustainable based on the results of those checks. And I can't say that there was. Which means I can't reasonably conclude that Castle Credit should have run more thorough checks or that it was wrong to approve the loan based on the information it did gather. And because I can't make that finding I can't uphold Ms F's complaint.

My final decision

For the reasons set out above I don't uphold Ms F's complaint against North Edinburgh and Castle Credit Union Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 18 December 2024.

Karen Hanlon
Ombudsman