

complaint

Miss R complains that Elevate Credit International Limited (trading as Sunny) gave her an unsuitable flexi loan. She wants it to restore her position.

background

Miss R had a flexi loan from Sunny in 2014. She thought Sunny hadn't made appropriate checks that she could afford it. Sunny said it had carried out proportionate and responsible affordability checks.

Our adjudicator recommended that the complaint should be upheld. He thought Sunny hadn't carried out proportionate checks that Miss R could afford to pay the highest loan repayment. He thought that if it had, then it would have seen that Miss R had other short-term loans and couldn't afford to repay the loan.

So the adjudicator thought Sunny had been wrong to approve the loan. He thought it should refund Miss R the interest and charges she paid, with interest, and remove any related adverse information from her credit file.

Sunny replied that it couldn't see Miss R's other short-term loan commitments on her credit file. It thought the adjudicator should have looked at her loan agreements from the time to see what her minimum repayments were.

my findings

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

Sunny approved Miss R for a flexi loan of £750. This meant that if she withdrew the maximum sum, then her largest monthly repayment would be £322.15. Miss R made several drawdowns until she reached the limit. She later repaid the loan in full.

Sunny was required to lend responsibly. It should have made checks to make sure Miss R could afford to repay the loans before it lent to her. Those checks needed to be proportionate to things such as the amount Miss R was borrowing, and her lending history. But there was no set list of checks Sunny had to do.

Sunny said it checked Miss R's credit file. This showed that she had had many other short-term loans in the previous year. But her recent loans wouldn't necessarily show on her file. Sunny asked Miss R for her monthly income. This was £1,633 after tax. And it asked Miss R for her monthly expenditure on credit.

I agree with the adjudicator that these checks weren't proportionate to the amount Miss R was expected to repay if she drew down the maximum amount. I think Sunny should have asked further questions about her outgoings and looked at her normal living costs and regular bills to see if she could afford to repay that amount comfortably. I also think that, prompted by its own credit check, Sunny should have asked Miss R about her other short-term lending.

I've looked at Miss R's bank statements from the time to get this information, but Sunny could easily have asked Miss R for it. These show that in the month before her loan, Miss R spent almost all her income on her normal living costs, her bills and existing credit commitments, both regular and short-term. So she couldn't afford the largest repayment for the amount Sunny approved.

Sunny thought that we should look at Miss R's other loan agreements from the time to see what her minimum repayments were and so see if she could afford its loan. But I don't think this is relevant in this situation. What we consider is what proportionate and sufficient checks at the time would have shown. If Sunny had made sufficient checks on Miss R's outgoings for the month before her loan was approved, I think it would have seen her short-term loan repayments. It would have seen that its loan to Miss R was unaffordable.

So I think that if Sunny had made proportionate and sufficient affordability checks, it would have seen, as I have, that Miss R couldn't afford this loan. So I think it was wrong to approve it.

my final decision

My final decision is that I uphold this complaint. I require Elevate Credit International Limited (trading as Sunny) to do the following:

1. Refund Miss R the interest and charges she paid on her loan, adding interest at 8% simple per annum from the date of payment to the date of settlement.
2. HM Revenue & Customs requires Sunny to withhold income tax from that interest. It must give Miss R a certificate showing how much it's taken off if she asks for one.
3. Remove any adverse information relating to this loan from Miss R's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 11 October 2017.

Phillip Berechree
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