

The complaint

Mr M complains about a loan provided to him by 1st Stop Personal Loans Limited.

What happened

Mr M took out a loan for £10,000 with 1st Stop in October 2019. Interest on the loan was at a fixed rate of 16.56% per annum. The annual percentage rate (APR) was 31.85%. Repayment was by way of 42 monthly instalments of just over £376, bringing the total Mr M would pay over the course of the loan to just under £15,800.

Mr M made the first monthly payment in November 2019, but his direct debit was returned in December 2019 and January 2020, was late in February 2020 and returned again in March 2020. 1st Stop began collections activity after the December 2019 payment failed.

Mr M complained to 1st Stop in April 2020. He said the loan was unaffordable and that should have been apparent to 1st Stop, before they agreed to the loan, if they'd carried out proportionate checks on his financial position and credit status at the time.

In particular, Mr M says his bank statements from September and October 2019 show returned direct debits (four in September and seven in October) and a number of payments for payday loans.

Mr M says that at the time he was a problem gambler and his statements would have shown that. He says 1st Stop didn't ask him to provide details of his monthly expenses, didn't ask for proof of employment or income and didn't ask to see his bank statements.

Mr M asked 1st Stop to refund any interest or charges he'd already paid on the loan, with statutory interest, and to delete any negative information about the loan on his credit reference record. He also wanted them to agree an affordable repayment plan if he still owed a balance on the loan after the refund with interest.

1st Stop didn't uphold Mr M's complaint. They said they'd considered a credit report on Mr M's finances before agreeing the loan and there was no evidence to suggest the loan was unaffordable.

Mr M wasn't happy with this outcome and brought his complaint to us. He's also made a further complaint to 1st Stop in the meantime - and they agreed that we could look into it. Mr M's additional complaint points were:

- he'd been misled when he agreed the loan about the way the interest was calculated;
- 1st Stop failed to provide him with a breakdown of what each payment instalment covered;
- 1st Stop failed to provide him with early settlement terms;
- the terms of the agreement were unfair;

Mr M also says 1st Stop agreed a "payment holiday" but then tried to collect further payments from him.

Our investigator looked into Mr M's complaint and didn't think 1st Stop had done anything wrong.

Mr M disagreed and asked for a final decision from an ombudsman.

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.

I'll try to deal with Mr M's complaint points in the order I've set them out above, although they do overlap to some extent.

Affordability checks

It's clear from the correspondence we have on file that Mr M is well aware of the legal and best practice requirements placed on lenders, so I needn't labour the point here.

The crux of this complaint is whether 1st Stop carried out reasonable checks on Mr M's financial position before they lent him the money.

Lenders are required to carry out proportionate checks before agreeing to lend money to potential customers. What checks are proportionate in any given case will depend on a number of factors, including: the type of credit; the size of the loan; the frequency and duration of the repayments; the total amount payable; and any adverse consequences for the customer if they fail to make the repayments.

We take the view that more detailed checks may be necessary if the potential customer has a relatively lower income and/or their financial situation is unstable and/or of the amount they're seeking to borrow is relatively high and the repayments are over a longer period.

I should also say that potential borrowers have obligations as well as potential lenders. It's not unreasonable for lenders to expect that what their potential customers tell them is true.

When Mr M applied for the loan with 1st Stop, they took into account a detailed credit report provided by a third party at their request.

That report shows a total of around 30 accounts, including accounts with utility providers, bank accounts, credit card accounts and loans. Nine of the 30 accounts have been settled – with nothing owing. There's no adverse information relating to those closed accounts.

On the 21 currently active accounts, there's very little adverse information. The odd payment may have slipped by a short time – but all payments appear to be up-to-date as at the date of the report. 1st Stop did ask Mr M about some of the previous missed payments. He explained they'd been due to specific unforeseen circumstances.

I don't think there's any dispute about whether the information included in the credit report was accurate. And it appears to show that whilst Mr M has a certain level of debt, he's perfectly able to make all repayments and keep his finances in good order. In other words, his financial position appears to be stable.

It's arguable that 1st Stop might have asked for proof of income, but the credit report itself indicates that Mr M has a reasonable and steady level of income. And there's no dispute

here either that Mr M gave 1st Stop an accurate figure for his monthly income, which was around £3,000.

Given the information available to 1st Stop from the credit report – and from Mr M – I don't think there were any warning signs which might have necessarily prompted 1st Stop to carry out further, more detailed checks into Mr M's financial position.

When 1st Stop then made their calculations about whether to agree the requested loan, they did accept Mr M's statement that his mortgage – with repayments at just under £800 per month – was equally shared with his partner, even though he told them she was pregnant and about to go on maternity leave.

It's arguable that when they calculated the affordability of the loan, 1st Stop should have assumed that Mr M might be responsible for all of the mortgage repayments at some point. It's also arguable that they should have carried out a more detailed assessment of his income and outgoings, rather than rely on data from the Office of National Statistics to assume his likely expenditure.

However, even if they had carried out more detailed checks on income and expenditure and/or assumed Mr M might have to pay the whole of the mortgage at some point, I don't think it would have affected their decision to lend the money. On the face of it, Mr M's income was sufficient to cover the mortgage repayments, the loan payments and his other expenses.

Mr M's income appears not to have been enough to cover all of those things because, as he says, he was problem gambler at that time. But he didn't tell 1st Stop about the money he spent on gambling. That's only to be expected in the circumstances perhaps, but the important point is that there was nothing in Mr M's credit report to suggest he had such a problem or that he was struggling with his finances.

When he set out his complaint to us, Mr M emphasised that if 1st Stop had looked at his bank statements in September and October 2019, they would have realised he had a problem.

That may be the case – though October's statement is more concerning than September's. But I have to point out that the loan was agreed – and the checks carried out – on 3 October 2019. Mr M's bank statement for October is dated the 9th. So, there's no conceivable way that 1st Stop could have considered that information when they agreed the loan.

In summary, I don't think it was unreasonable for 1st Stop to agree the loan based on the information in the credit report they obtained. The information provided in the report was comprehensive. It appeared to confirm what Mr M was telling 1st Stop about his financial position at the time. And there were no indications in the report that Mr M was in financial difficulty and/or which might have reasonably prompted 1st Stop to carry out more detailed checks.

The way the interest was calculated and the fairness of the agreement

The interest was at a fixed rate over the term of the loan. Early monthly payments mainly covered the interest accrued in that month and took a small amount off the principal. As time went on, a gradually greater proportion of each monthly payment went to pay off the principal.

We've got copies of the loan agreement which Mr M signed up to. The way the interest is calculated is absolutely clear. The interest rate and APR are absolutely clear. The amount to be paid in total is absolutely clear. The amount to be paid each month is absolutely clear.

Mr M was sent copies of the terms and given a reasonable cooling off period, during which he could decide not to take the loan without penalty.

We've listened to recordings of the relevant calls between Mr M and 1st Stop. And there's nothing to suggest 1st Stop misrepresented the terms of the loan or contradicted what's in the written agreement.

In short, I can't see any justification for the suggestion that Mr M was misled about the way the loan would work and/or what he'd have to pay and/or why.

The interest rate is relatively high on the loan, but it's not unusual for this kind of lending and it's not inherently unfair or unreasonable. And as I say, Mr M knew what the terms were when he agreed to the loan.

The payment breakdown and early settlement terms

It's clear from the information we have on file that Mr M contacted 1st Stop in August 2010 to ask for an early settlement figure. He also asked them for a breakdown of the payments made so far.

It appears 1st Stop sent a statement of account, which showed the payments made, on the same day they received his request.

I believe Mr M intended to ask for a breakdown to show how much of each monthly payment went on paying off the interest on the loan and how much went towards paying off the principal.

However, I don't think it was unreasonable – on the basis of the communication from Mr M - that 1st Stop sent him the statement of account rather than the breakdown of the repayments.

There were clearly crossed wires here about what Mr M wanted but, looking at the relevant emails, I can't in all fairness conclude that 1st Stop intentionally deprived Mr M of information he was entitled to have.

It's clear from the information and evidence we have on file that 1st Stop tried to contact Mr M several times in response to his request for an early settlement figure. They wanted to discuss his income and expenditure so that they could come to a view about the early settlement.

Mr M didn't respond when 1st Stop first tried to contact him. When he did, he asked them to communicate with him by email only.

Mr M asked for the settlement figure in mid-August, by 10 September he'd contacted 1st Stop again to make his own proposal about settling the debt. In between those dates, 1st Stop attempted to contact Mr M to discuss the matter on several occasions – by phone, text and email.

So, I can't say 1st Stop acted unfairly or unreasonably in response to Mr M's request for an early settlement figure.

The payment holiday

Mr M says 1st Stop agreed to a complete payment holiday in April 2020. He then complained to them when they tried to take a direct debit payment from his account – for a reduced monthly amount – in the same month.

I'm afraid there's no evidence to support Mr M's claim that 1st Stop in effect agreed a payment holiday and then went back on that agreement.

Mr M requested a payment holiday through a web chat on 17 April 2020. He was asked to agree to one of three possible reduced repayment amounts or to reply "none" if he couldn't afford any of them.

When he replied "none", Mr M was advised he'd have to speak to 1st Stop by phone to discuss the situation. The records of the web chat show Mr M went around this loop several times – each time answering "none" – and getting the same answer. But eventually he selected the lowest repayment amount on offer.

1st Stop then sent Mr M a letter confirming the agreement. It's clearly a standard letter and refers to 1st Stop granting Mr M – as a result of financial difficulties arising from the Coronavirus lockdown – either a repayment holiday or reduced payment plan "*as agreed with you*".

Taken in context, this communication is clearly intended to confirm the reduced payment amount agreed by Mr M (eventually) on the web chat. And it was that amount that 1st Stop attempted to collect by direct debit later in April 2020.

Summary

I'm satisfied that, on the whole, the checks carried out by 1st Stop before they agreed Mr M's loan were proportionate and reasonable.

It's arguable they might have gone further in checking whether Mr M's partner was going to be able to continue to pay half of the mortgage, but I don't think that would have led to them refusing Mr M the loan – even if they'd assumed he would have to pay it all.

It's also arguable that they might have carried out with him a more detailed analysis of Mr M's income and expenditure. They'd have found his income was what he said it was. And it's very unlikely Mr M would have told them about his gambling expenses. So again, I can't reasonably say that their lending decision would have been different.

Given the credit report they obtained, I can't say 1st Stop should have necessarily requested Mr M's bank statements. And even if they had, they wouldn't have seen the statement for October, which is when Mr M's problems became more apparent from his transactions.

I don't think Mr M was misled about the terms of the loan and I don't think those terms were inherently unfair. Nor do I think 1st Stop's responses to Mr M's request for information about the loan were unreasonable.

And I think I've explained above why I'm satisfied 1st Stop didn't agree a payment holiday for Mr M.

In his communications with us, Mr M has referred to other complaints about unaffordability which we've upheld. I'd ask Mr M to understand that we look at each case on its own merits and that no two cases will be the same in terms of their specific and individual circumstances.

I understand Mr M has been in discussions with 1st Stop about an affordable repayment plan, through the debt charity StepChange. I hope Mr M comes to an agreement that's satisfactory for both parties.

I'd also like to say that I'm really sorry to hear about Mr M's gambling issues and I wish him well for the future.

My final decision

For the reasons set out above, I don't uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 16 April 2021.

Neil Marshall
Ombudsman