

The complaint

Miss A complains Lend Fair Ltd irresponsibly lent to her. She says the loans were unaffordable to her and Lend Fair would've seen this had it completed proportionate checks.

What happened

Miss A was approved for the below loans by Lend Fair:

Loan	Date	Capital Amount	Term	Monthly Repayments
One	March 2015	£2,000	36 months	£96 approx.
Two	May 2016	£3,000	60 months	£115 approx.

Miss A says she was experiencing financial difficulties at the point she applied for both loans. She says for loan one she had debts including rent arrears. She also says she was spending money on online gambling websites, which meant her outgoings were higher than she could afford.

I wrote to both parties setting out my provisional findings on this complaint. Those provisional findings were:

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

We've set out our approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website. I've used this approach to help me decide Miss A's complaint. Bearing in mind the complaint before me, I think that there are a number of overarching questions I need to consider in order to fairly and reasonably determine Miss A's complaint. These are:

- 1. Did Lend Fair complete reasonable and proportionate checks on Miss A at each lending decision stage to satisfy itself she was in a position to afford to repay the loan sustainably?*
 - If so, did it make a fair decision?*
 - If not, would those checks have shown Miss A would have been able to do so?*

Lend Fair is aware that it is required to complete reasonable and proportionate checks before approving any credit to consumers. These checks assess Miss A's ability to afford the loan and repay it sustainably over its term, without causing her financial difficulties. These checks are referred to as an affordability assessment or an affordability check.

There isn't a set list of checks a lender needs to carry out, but they should be proportionate, taking into account things like the type, amount, duration and total cost of the credit, as well as the borrowers individual circumstances.

And it isn't sufficient for Lend Fair to just complete proportionate checks – it must also consider the information it obtains from these checks to make a fair lending decision.

Did Lend Fair complete reasonable and proportionate checks on Miss A at each lending decision stage to satisfy itself she was in a position to afford to repay the loan sustainably?

Loan one

Loan one was taken out in March 2015 and was for a capital amount of £2,000. Miss A says at the time of this application she was experiencing financial difficulties, was in arrears with debts such as her rent, and was gambling.

Lend Fair says it completed proportionate checks in this instance. It says it completed a detailed income assessment, which included asking for copies of Miss A's payslips and bank statements. It says it also asked detailed questions about her expenses and checked for things like CCJ's. Lend Fair says these checks showed Miss A could afford the loan, and that there was no adverse information which suggested Miss A was experiencing financial difficulties at the time of the loan. It says as the checks covered Miss A's main financial commitments that the checks were proportionate, and as it showed the loan was affordable it lent responsibly.

Having reviewed the information which has been provided so far, I'm minded to say I disagree with Lend Fair that it completed proportionate checks.

As I've mentioned above Lend Fair is required to carefully consider the information it gets; not just complete checks. In this instance whilst Lend Fair have sought to verify Miss A's income and benefits through payslips and bank statements; I think there is sufficient information to warrant further checks.

I say this because the statements which were provided at the time show regular transfers to and from a further account of Miss A's. The frequency of these transfers is highly unusual with multiple transactions being completed on a single day. This occurs regularly throughout the whole of the span of these statements.

The amounts also vary significantly with each transaction. There are some for £10, and others for £125. In one day, Miss A transfers over £250 to the account via varying amounts and at different intervals.

In addition to this the bank statements show that Miss A is using this second account to help balance the amounts on this account. There are numerous times when Miss A's balance drops to £0.09. This is then shortly followed by a transfer of money from her second account into this one.

This pattern which is so consistent across the statements provided suggests someone who is managing their finances in an irregular way (and certainly across two accounts) and should've warranted Lend Fair to ask further questions about this.

It follows that I'm satisfied it should've completed further checks to verify Miss A's account. And as it didn't do this, I'm satisfied it didn't complete proportionate checks.

Would further checks have shown Miss A was in a position to repay this loan sustainably?

Miss A has provided our service with copies of statements from her second account. And I've used this information to help me decide whether any further checks Lend Fair would've done would've still resulted in it lending to Miss A.

Having done so, I'm not satisfied it would have. The statements from the second account show the numerous transactions which have been sent to and from Miss A's first account. They also show significant and frequent deposits to online gambling websites throughout the whole period leading up to the loan application. The statements show that Miss A is gambling large amounts often over a hundred pounds at a time and is managing her finances to a tight if not negative margin.

They also show that Miss A was making payments to debt collectors and debt managers. This is consistent with her testimony that at the time of applying for the loans she was in arrears on payments such as her rent. The statements don't demonstrate someone who was in a sufficient financial position to be taking on more outgoings or increasing their overall level of debt.

Based on this information I'm satisfied that Miss A wasn't in a position to meet any payments sustainably; and that she was using her income to fund payments to online gambling. As it is likely Miss A would be unable to meet the payments without incurring further financial hardship; it follows that I don't think Lend Fair have made a fair decision to lend. I'm satisfied that Lend Fair would've come to this conclusion too had it completed proportionate checks.

Loan two

Loan two was taken out in May 2016, and was for a total capital amount of £3,000. The term of the loan increased to 60 months, along with repayments of approximately £115 per month.

Lend Fair has said it completed similar checks for Miss A at the application stage for loan two. It says the purpose of this loan was to purchase a car; and that it conducted a similar detailed affordability assessment on Miss A.

Lend Fair says Miss A was working full time and her salary had increased; and that her expenses had remained the same. So it says the checks were proportionate. It says as the checks showed Miss A could afford the loan that it's decision to lend was fair.

I've already explained why I'm not persuaded proportionate checks were completed on loan one, and for the same reasons I'm not persuaded they were for loan two either. And it also follows that as Miss A could not afford loan one; and her circumstances hadn't changed significantly since this time; that she couldn't afford loan two either.

Lend Fair ought've been aware that Miss A had been spending a significant amount of her money on gambling; and that she was not making her existing loan repayments in a sustainable way. As the lending relationship continues between borrowers and lenders, we expect the lenders to have a better understanding of their consumer's circumstances. In this instance there was already sufficient information from the first loan to suggest Miss A finances were not suitable; and as such any further lending should've prompted more extensive checks. Lend Fair didn't do this; it instead did the same level of checks.

I'm satisfied that had it conducted further checks it would've realised Miss A's circumstances had not changed significantly between loan one and loan two to warrant the increase in debt that Lend Fair was approving. Miss A's outgoings were still being spent on online websites; and she was managing her finances to a very tight if not negative margin.

The fact she was taking out loan two for a car purchase; also meant she was increasing her overall level of debt further. And as she was not managing her existing commitments well; and using the credit she did have to fund her online gambling; it follows that any further increasing of her credit would be unaffordable to her. As such I'm currently minded to say that loan two should not have been approved either.

I asked both parties to respond to my provisional decision with any further information they wished me to consider. Miss A responded agreeing with the outcome. Lend Fair has not responded within the relevant time frame.

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.

As I've received no new information from either party, I'm satisfied my provisional findings should remain the same. That is to say that I'm satisfied Miss A's complaint should be upheld.

This is for the reasons set out in my provisional decision; but namely that in relation to loan one Lend Fair should've completed further checks on Miss A in order for them to be proportionate. Had it done this, Lend Fair would've reasonably seen that Miss A was not in a position to meet these repayments sustainably. And as such its decision to lend was unreasonable. Following on from this, in relation to loan two, I'm satisfied Lend Fair also did not complete proportionate checks. And again, had it done so it ought reasonably have concluded Miss A income was not sufficient to meet any increase in outgoings, and thereby making any further lending unaffordable to her.

Putting things right

In order to put things right I require Lend Fair Ltd to:

- To add up the total amount of money Miss A received as a result of having been given these loans. The repayments Miss A made should be deducted from this amount.
 - a) If this results in Miss A having paid more than she received, then 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 Lend Fair Ltd should attempt to arrange an affordable/suitable payment plan with Miss A.
- To remove any negative information recorded on Miss A's credit file regarding these loans.

*HM revenue & Customs requires Lend Fair Ltd to take off tax from this interest. Lend Fair Ltd must give Miss A a certificate showing how much tax it's taken off if she asks for one.

My final decision

My final decision is that I uphold this complaint against Lend Fair Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 6 January 2022.

Tom Whittington
Ombudsman