

## **The complaint**

Mr P complained that OAKBROOK FINANCE LIMITED trading as Likely Loans lent to him irresponsibly.

## **What happened**

Mr P took out a single loan from Likely Loans in November 2019. He borrowed £1,000 and he agreed to pay the loan by making 48 monthly instalments of £29.54.

As far as I am aware, the loan isn't yet repaid in full.

Mr P brought his complaint to us when he wasn't able to resolve it with Likely Loans.

In summary, Mr P didn't think that Likely Loans had lent to him responsibly, taking account of the extent of his existing debt and his spending at the time on gambling.

Our investigator thought that information Likely Loans gathered about Mr P's financial situation was enough for it to make a fair lending decision and that the information it saw wasn't enough for him to be able to say Likely Loans made an unreasonable lending decision.

Mr P disagreed with our investigator's view. He mainly said that the amount of debt he had at the time meant Likely Loans shouldn't have lent to him and he'd had a gambling problem.

Mr P asked for an ombudsman to review the complaint.

The complaint came to me to decide. I issued a provisional decision.

## **What I said in my provisional decision**

Here are some of the main things I said.

"There are some general principles I will keep in mind and questions I need to think about when deciding whether to uphold Mr P's complaint.

Before agreeing to lend, lenders must work out if a borrower can afford the loan repayments alongside other reasonable expenses the borrower also has to pay. This should include more than just checking that the loan payments look affordable on a strict pounds and pence calculation. A lender must take reasonable steps to satisfy itself that the borrower can sustainably repay the loan – in other words, without needing to borrow elsewhere.

The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out. For example, when thinking about what a borrower has left to spend on a new loan after paying other expenses, as well as taking into account things like the loan amount, the cost of the repayments and how long the loan is for, a proportionate check might mean a lender should also find out the borrower's credit history and/or take further steps to verify the borrower's overall financial situation.

If reasonable and proportionate checks weren't carried out, I need to consider if a loan would've been approved if the checks had been done.

If proportionate checks were done and a loan looks affordable, a lender still needs to think about whether there's any other reason why it would be irresponsible or unfair to lend. For example, if the lender should've realised that the loan was likely to lead to more money problems for a borrower who is already struggling with debt that can't be repaid in a sustainable way.

I've kept all these things in mind and I've thought carefully about the information Likely Loans relied on when it decided to lend to Mr P.

Likely Loans asked Mr P about his pay and his housing costs and carried out some background checks on his income and credit history. It also took into account statistical information about what someone in Mr P's position typically spent each month on basic essentials.

Likely Loans recorded Mr P's net monthly income as £1,748.11 per month. When looking at what he could afford, Likely Loans included an amount of £797.90 for his mortgage payment and other main living costs and allowed for Mr P spending £545 on his other existing credit. Likely Loans also allowed a £50 'buffer' to cover any unplanned spending or financial emergency.

On these figures, *after* paying his Likely Loans loan, this meant that Mr P should still have had around £325 left to spend and available to cover other unexpected costs arising. Likely Loans said that Mr P had no adverse data shown on his credit file which would prevent lending, he was maintaining his credit and his priority bills were up to date. So Likely Loans felt this loan was affordable for Mr P.

But I don't think that Likely Loans properly took into account the information it was able to see on the credit checks it carried out when thinking about whether Mr P would be able to repay this loan in a way that was sustainable.

Likely Loans could see from the information it had gathered that Mr P was already spending around 31% of his net monthly income on servicing his existing debt. I think that this was such a significant proportion of Mr P's take home pay it was a clear indication that Mr P was, in reality, already experiencing financial difficulty. I think Likely Loans ought reasonably to have been aware that taking further, costly lending was unlikely to help Mr P. And bearing in mind that the loan purpose was unclear I think Likely Loans should have realised it was likely to add to Mr P's overall indebtedness – potentially over the longer term, given that it saw the extent of his existing credit was more than £17,000. Someone earning the amount Mr P did was likely to take many years to clear this amount of debt out of his salary alone.

I think all this information painted a picture of someone struggling to manage money problems effectively and it included clear warning signs that Mr P might be experiencing financial difficulty.

Even if Mr P had used this loan to repay some existing debt, I don't think Likely Loans had sufficient reason to think this would've improved his overall position sufficiently to achieve a significant and sustainable improvement in his financial situation – given his outstanding indebtedness overall.

And based on all the information Likely Loans had gathered, I don't think it was reasonably able to say that the loan was likely to be sustainably affordable for Mr P.

I've explained why I think Likely Loans should've realised that this loan wasn't likely to be sustainably affordable for Mr P and I've concluded that, based on the information it could already see, Likely Loans shouldn't have lent to him.

Although it doesn't make a difference to my conclusions, unlike our investigator I also think Likely Loans provided this loan to Mr P without finding out information it should've done to check that it had a proper understanding of Mr P's financial situation – given the discrepancy between what Mr P had said (or omitted to say) to Likely Loans and his apparent reliance on credit.

Likely Loans could, of course, decide for itself how to undertake proportionate checking. But Mr P has provided his bank statements from around the time of this loan and, in the absence of other evidence, I think these give a reasonable guide to Mr P's finances at the time. So I've looked through these to see what Likely Loans was likely to have found out about his overall financial situation had it carried out more in-depth checks.

And had Likely Loans looked in more depth at Mr P's finances it would likely have seen that he was facing serious problems managing his money.

The concerns I've mentioned about this loan not being sustainably affordable are borne out by other information I've seen on bank statements Mr P sent to us showing that he had taken out at least three other loans totalling £1,600 with other providers of high cost credit during the previous month and another £1,000 loan just 3 days prior to Likely Loans providing this loan.

I think, had Likely Loans done a proportionate check before providing this loan, it would've likely found this out – and also learned that Mr P was spending significantly on gambling transactions at that time.

So it would've realised that the loan wouldn't be sustainable for him and it shouldn't have been provided.

For all these reasons, I'm planning on upholding this complaint.

I would just mention that Mr P's bank statements also show that Likely Loans underestimated his net monthly income. In the 3 months prior to Mr P taking out this loan his monthly salary was around £1,823. But this makes no overall difference to my view.

Even if Likely Loans had used the correct figure when it assessed affordability it still should've realised that Mr P would be paying almost a third of his take home pay just on servicing debt alone – and bearing in mind he was signing up to make the loan repayments for the next four years, it should've realised this loan was unlikely to be sustainably affordable over the loan term.

Like our investigator, I don't think Likely Loans acted unfairly or unreasonably in any other way.

So I think the steps I've set out below fairly and reasonably provide redress for his complaint.

It appears that Mr P hasn't objected to what our investigator said about this so I don't think I need to say more."

## **What the parties said in response to my provisional decision**

Both Mr P and Likely Loans confirmed they agree with what I've said in my provisional decision.

## **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.

We've set out our approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding this complaint.

I'd like to thank both parties for all the information that has been provided about this matter and Likely Loans for responding so promptly to my provisional decision.

Given that I've not received any further evidence or comment that changes my mind about this complaint, I confirm the conclusions I reached in my provisional decision.

## **Putting things right**

I think it is fair and reasonable for Mr P to repay the capital amount that he borrowed, because he had the benefit of that lending.

But he has paid interest and charges on lending that should not have been provided to him. In line with this Service's approach, Mr P shouldn't repay more than the capital amount he borrowed.

If Likely Loans has sold outstanding debt it should buy it back if it's able to do so and then take the following steps.

Otherwise, Likely Loans should liaise with the new debt owner to achieve the results outlined below.

☐ Remove all interest, fees and charges on the loan and treat all the payments Mr P made as payments towards the capital.

☐ If reworking Mr P's loan account results in him having effectively made payments above the original capital borrowed, then Likely Loans should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled\*.

☐ If an outstanding balance remains, then Likely Loans should try to agree an affordable repayment plan with Mr P - bearing in mind the need to treat him positively and sympathetically in those discussions.

☐ Remove any adverse information recorded on Mr P's credit file in relation to the loan.

\*HM Revenue & Customs requires Likely Loans to deduct tax from this interest. Likely Loans should give Mr P a certificate showing how much tax it's deducted, if he asks for one.

## **My final decision**

I uphold this complaint and direct OAKBROOK FINANCE LIMITED trading as Likely Loans to take the steps set out above to put things right for Mr P.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 7 October 2021.

Susan Webb  
**Ombudsman**