

The complaint

Mr D complains that the loans he had from Oakbrook Finance Limited (trading as Likely Loans) were unaffordable for him and that it was irresponsible for it to have approved the lending.

What happened

Mr D had two loans from Likely Loans in May 2017 and December 2019 as follows:

<u>Loan</u>	<u>Date</u>	<u>Amount</u>	<u>Term</u>	<u>Repayment</u>	<u>Due</u>	<u>Repaid</u>
1	23 May 2017	£3,000	12m	£319.49	23 May 2018	23 Feb 2018
2	30 Dec 2019	£1,000	12m	£91.85	30 Dec 2020	On time

Mr D says that Likely Loans lent to him when he was already in financial difficulties. He says he had a number of other loans at the time and that all his money was spent on gambling and repaying other debts. Mr D says Likely Loans should have carried out better checks before agreeing to lend to him as the stress has led to the breakdown of various relationships.

Likely Loans says it conducted its standard credit checks and verified the income figure Mr D provided for loan 2. It says it also used a statistical average figure to estimate Mr D's other expenditure. It says the loans were to be used for debt consolidation and it had no reason to request any further information based on the results of its checks. Likely Loans says it felt the checks were proportionate and did not indicate any issues with gambling. It adds that Mr D repaid both loans on time, or early, and did not advise of any financial difficulties in the process. However, Likely Loans offered to uphold the complaint about loan 1 as its investigation revealed that further checks should have been undertaken to verify Mr D's income and the affordability of the repayments. It said it would refund any interest on the loan (plus 8% statutory interest) and confirmed it had not reported any negative information on his credit file with regard to loan 1.

Our adjudicator did not recommend the complaint should be upheld. She said that Likely Loans's offer for loan 1 was in line with this service's standard approach so she only considered loan 2. Our adjudicator was satisfied Likely Loans carried out proportionate checks for loan 2, and there was nothing in the available information to indicate the repayments were unsustainable.

Mr D responded to say, in summary, that he had a £1,000 loan with another company at the time of loan 2 and had recently lost over £3,000 on gambling. He said multiple other loan companies had declined loan applications and he had a very low credit rating at the time. Mr D adds that Likely Loans enabled him to continue gambling and thereby worsened his

financial situation and contributed to relationship breakdowns with his partner, children and friends. He says his low outgoings compared with his income, combined with a low credit score, should have been a warning sign to Likely Loans of someone living beyond their means. Mr D said if Likely Loans had requested bank statements it would have seen the severity of his gambling addiction.

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 need to take into account the relevant rules, guidance and good industry practice.

The Financial Conduct Authority (FCA) was the regulator when Likely Loans lent to Mr D. Its rules and guidance obliged it to lend responsibly. As set out in the regulator's Consumer Credit Sourcebook (CONC), this meant that Likely Loans needed to take reasonable and proportionate steps to assess whether or not a borrower could afford to meet its loan repayments in a sustainable manner over the lifetime of the agreement.

At the time of the initial lending CONC 5.3.1G stated that:

- 1. In making the creditworthiness assessment or the assessment required ... a firm should take into account more than assessing the customer's ability to repay the credit.*
- 2. The creditworthiness assessment and the assessment required ... should include the firm taking reasonable steps to assess the customer's ability to meet repayments under a regulated credit agreement in a sustainable manner without the customer incurring financial difficulties or experiencing significant adverse consequences.*

Repaying debt in a sustainable manner was defined as being able to meet repayments out of normal income while meeting other reasonable commitments; without having to borrow further to meet these repayments; without having to realise security or assets (CONC 5.3.1G - 6) or without incurring or increasing problem indebtedness (ILG 4.3).

(The Office of Fair Trading was the previous regulator and it produced a document entitled 'Irresponsible Lending Guidance' which the FCA referenced in its consumer handbook. CONC 5.3.1G – 6 specifically referenced ILG 4.3.)

In November 2018, before Mr D applied for loan 2, the wording of the regulations changed, although the main requirements stayed the same.

CONC 5.2A.4R states that:

A firm must undertake a reasonable assessment of the creditworthiness of a customer before:

- 1. entering into a regulated credit agreement; or*

2. *significantly increasing the amount of credit provided under a regulated credit agreement.*

In general, I'd expect a lender to require more assurance the greater the potential risk to the borrower of not being able to repay the credit in a sustainable way. So, for example, I'd expect a lender to seek more assurance, potentially by carrying out more detailed checks

- the *lower* a person's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *longer* the term of the loan (reflecting the fact that the total cost of the credit is likely to be greater and the borrower is required to make payments for an extended period).

In addition, as per CONC 5.3.1G – 4b: it is not generally sufficient for a firm to rely solely for its assessment of the customer's income and expenditure, on a statement of those matters made by the customer.

Bearing all of this in mind, in coming to a decision on Mr D's case, I have considered the following questions:

- Did Likely Loans complete reasonable and proportionate checks when assessing Mr D's loan applications to satisfy itself that he would be able to repay the loans in a sustainable way?
 - If not, what would reasonable and proportionate checks have shown?
- Did Likely Loans make a fair lending decision?
- Did Likely Loans act unfairly or unreasonably in some other way?

Loan 1

Likely Loans has upheld Mr D's complaint about the affordability of loan 1 as it acknowledged its checks didn't go far enough. As the offer is in line with this service's standard approach, I find this is fair and reasonable and I won't consider loan 1 further in this decision.

Loan 2

I've seen evidence to show Likely Loans verified Mr D's income, checked his credit file and estimated his other regular expenditure. I'm satisfied that these checks went far enough for Mr D's second loan because:

- Mr D had already demonstrated he could sustainably repay over £300 per month as he'd repaid loan 1 early in February 2018;
- It was almost two years before Mr D applied for a second loan which did not indicate he was dependent on this type of lending;

- Loan 2 required him to repay £91.85 per month which was only 3.5% of his verified income;
- Likely Loans's credit check showed:
 - No County Court Judgements or defaults and all Mr D's accounts were up to date with payments;
 - Seven active accounts with a combined balance of less than £7,000;
- The affordability calculation indicated Mr D had over £1,100 of disposable income.

For the above reasons, I don't consider there was anything in the results of the checks that suggested Mr D was struggling financially, or that Likely Loans needed to carry out further checks.

I accept what Mr D says about the level of gambling Likely Loans would have seen in his bank statements at the time, but I don't find it would have been proportionate for it to carry out that level of checks given the circumstances of the lending and the information it already had.

So I'm satisfied that Likely Loans considered the repayments were affordable and made a fair lending decision for loan 2.

I understand Likely Loans has also confirmed it will settle Loan 1, in line with its final response, on receipt of this decision.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 15 February 2022.

Amanda Williams
Ombudsman