

The complaint

Miss K complained that 1Plus1 Loans Limited unfairly accepted her as the guarantor on a loan taken out by the borrower. Miss K said 1Plus1 Loans didn't properly carry out affordability checks or assess the signs that she was already over indebted.

What happened

Miss K was given a loan by 1Plus1 as follows:

Date	Amount	Term (months)	Monthly Repayment	Total Repayable
21/08/2020	£3,000	60	£114.38	£6,862.80

One of our investigators reviewed Miss K's complaint. After looking at the information 1Plus1 Loans had seen when doing its affordability checks our investigator didn't think that Miss K had a reasonable level of disposable income left once all of her bills, credit commitments and regular monthly outgoings were taken into account and 1Plus1 hadn't allowed properly for all the usual spending Miss K actually incurred each month. Our investigator felt that the loan was unaffordable for Miss K and didn't think that 1Plus1 should've provided it. Our investigator set out the steps 1Plus1 needed to take to put things right.

Miss K would like to see her complaint settled in the way our investigator suggested.

1Plus1 disagreed with our investigator's view. In brief summary, it disputed the figures that our investigator had used when assessing affordability and said it was still satisfied that Miss K had sufficient disposable income to be able to make the loan repayments.

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.

"1Plus1 Loans had responsibility for ensuring that the loan repayments were affordable and sustainable for Miss K before agreeing that she could be guarantor for this loan. This meant that 1Plus1 Loans needed to carry out proportionate checks to be able to understand whether Miss K could afford to make all the loan payments in the event she had to. Our website sets out what we typically think about when deciding whether a lender's checks were proportionate.

In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they are guaranteeing.

In light of this, I think that a reasonable and proportionate check ought generally to have been more thorough:

- the lower a customer's income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income)
- the higher the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income)
- the longer the period of time a borrower will be indebted (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

If proportionate checks were done and a loan looked affordable on a strict pounds and pence calculation, 1Plus1 Loans still needed to think about whether there was any other reason why it would be irresponsible or unfair to accept Miss K as guarantor. For example, if it should've realised that she was already over-stretched financially or struggling with debt.

I've kept all of this in mind when thinking about whether 1Plus1 Loans did what it needed to before agreeing to lend to Miss K.

1Plus1 Loans asked Miss K about her income and expense. It verified her income electronically and also carried out credit checks and it looked at information shown on her bank statements. 1Plus1 Loans told us it also took into account statistical information to compare Miss K's expenditure against national data showing typical spending for someone in the same situation.

1Plus1 Loans recorded a figure of £1,136 net salary per month plus benefits of £976 and after doing its own background checks, it boosted the amount of Miss K's expenditure – and this led to 1Plus1 reducing the amount it was prepared to lend to Miss K.

When looking at what she could afford, 1Plus1 Loans said it had included a safety' buffer' of an extra £100 in its affordability calculations to allow for unexpected costs. So when it worked out after doing all this that Miss K should still have an average amount of £106 each month to spend on discretionary items over and above her essential spending it felt that the monthly repayments of £114.38 for this loan were affordable for Miss K.

I think a proportionate check in these circumstances did require 1Plus1 Loans to ensure it had a detailed understanding of Miss K's finances, given that she was signing up to guarantee the loan for the next five years if the loan ran to term. I say this because the monthly cost presented a high risk of becoming unaffordable or unsustainable over the term of the loan.

1Plus1 Loans could, of course, decide for itself how to undertake proportionate checking and it has said that the information it relied on to assess affordability was an exact replica of her actual banking data and taken directly from Miss K's bank statements – which she had supplied covering the months prior to the loan. 1Plus1 Loans has sent me its affordability calculation and I've also looked at Miss K's bank statements from around the time of this loan which I think provide useful insight into her finances at the time.

I don't need to say more about the checks it did because the main reason I'm planning on upholding this complaint is that I don't think 1Plus1 Loans thought carefully enough about what the information it had gathered showed about Miss K's overall financial situation and the likelihood of her being able to pay its loan in a sustainable manner. And I don't think 1Plus1 Loans made a fair lending decision when it lent to Miss K based on the information it had gathered.

I can see from looking at her bank statements that Miss K was making full use of her arranged overdraft limit of £300 during the three months running up to her signing up to guarantee this loan. Typically her account was overdrawn, often close to the account limit

and she was in credit only briefly around the time her wages were paid or the benefits she received were credited to the account. This meant, in effect, that Miss K was reliant on continuing to use borrowed money from the bank to meet her day to day spending needs.

I've taken into account that 1Plus1 Loans has said she could have boosted her income by making only the minimum monthly repayments owed on cards as she was paying more than she was contractually obliged to. But I think it's fair to say that making minimum monthly repayments on cards effectively extends the debt potentially for years and it adds very significantly to the long term cost of that credit – repayments at that level are insufficient to make any meaningful inroads into card balances. Miss K wanted to reduce the outstanding balances more quickly. So I don't think it was fair for 1Plus1 Loans not to allow for this when assessing the affordability of its loan.

I think it's also clear that the amount of income paid by Miss K's ex-partner could vary. So basing affordability of a loan that Miss K was going to be liable to pay for the next five years on the assumption that the full amount was guaranteed doesn't seem to me to be fair and reasonable.

All in all, I think 1Plus1 Loans should've realised that Miss K's finances were, in actual fact, already under significant stress and that the reality of her situation was that this additional debt would be unmanageable for her. The fact that 1Plus1 Loans reduced the amount it was prepared to lend doesn't mean this loan was fairly provided.

If 1Plus1 Loans had factored into its affordability calculations the amounts it saw Miss K was actually spending out of her account each month this would've resulted in Miss K having little or no disposable income left. I don't think the £100 buffer was enough to offset this given that Miss K was persistently stuck in overdraft in excess of this amount. And an additional outgoing of £114.38 would've likely led to her exceeding her arranged overdraft limit and/or reducing her card repayments. Or to put things another way, she would be reliant on unauthorised (or at best additional) borrowing in order to make these loan repayments or otherwise she would need to maintain other credit balances in order to be able to prioritise paying this loan. I think both those options- effectively needing to use other credit to repay additional borrowing - would have likely been detrimental to Miss K. And looking at her monthly expenditure, I think it's fair to say that there was limited scope for her to cut back on other spending throughout the loan term – keeping in mind that a figure approaching half of her overall monthly income (according to the figure 1Plus1 Loans relied on) included benefits that were paid based on her income and circumstances and specifically intended to help cover other costs – not repay additional debt.

So, for all these reasons, I can't reasonably say that 1Plus1 made a fair lending decision and I don't think it should have agreed to provide this loan to Miss K.

I appreciate the time 1Plus1 Loans has spent setting out its position in some detail and I acknowledge that 1Plus1 Loans has taken a different view to me. In coming to my decision I've thought carefully about everything 1Plus1 Loans has said, including its detailed responses to our investigator's view. But this doesn't affect my overall view. I think it was fair for 1Plus1 Loans to use Miss K's guaranteed wages when assessing affordability even if Miss K's average income could be boosted by overtime earnings as there could be no assurance that this would always be a possibility, especially bearing in mind that the loan term goes beyond what I think would be a reasonably foreseeable length of time. And the fact that the payments from Miss K's ex-partner seemed to have continued consistently at the higher level isn't enough to make me think this means it was fair overall to accept her as guarantor for the loan.

Miss K made the loan repayments in place of the borrower. As I don't think that Miss K should have been accepted as the guarantor for this loan, I'm satisfied that she has lost out as a result of what 1Plus1 Loans did wrong. So, I think 1Plus1 Loans needs to put things right."

What the parties said in response to my provisional decision

Miss K has responded to my provisional decision. I have heard nothing further from 1Plus1 Loans and the deadline for responses has now passed. So I think it's reasonable for me to proceed with my review of this complaint.

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 Miss K for responding 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

1Plus1 Loans should take the following steps:

- release Miss K from any obligations she has under the Guarantee and Indemnity agreement she signed and then terminate it,
- refund any repayments Miss K has made towards the loan, with 8% simple interest* from the date of payment to the date of settlement,
- Miss K shouldn't have been party to this loan so I don't think it's reasonable that her credit file should be affected by it. This means that 1Plus1 Loans should remove any information it has recorded on Miss K's credit file concerning the loan.

*HM Revenue & Customs requires 1Plus1 Loans to deduct tax from this interest.

1Plus1 Loans should give Miss K a certificate showing how much tax has been deducted if she asks for one.

My final decision

I uphold Miss K's complaint and direct 1Plus1 Loans Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 23 March 2022.

Susan Webb
Ombudsman