

The complaint

Mr K says Oakbrook Finance Limited (trading as Likely Loans) lent to him irresponsibly.

What happened

Mr K took out a 36-month instalment loan for £2,500 from Likely Loans on 25 August 2018. The monthly repayment was £132.06 and the total repayable was £4,754.16.

He says if Likely Loans had completed proper checks it would have seen he couldn't afford this loan. He had other debts and was already borrowing from family and friends so this loan escalated his financial problems.

Our adjudicator said Likely Loans carried out proportionate checks and there was nothing in the information it gathered that should have led it to make a different lending decision.

Mr K disagreed saying the lender's checks were not thorough – it should have asked for copies of his payslips and bank statements. Had it done so it would not have lent to him.

As an agreement wasn't reached the complaint was passed to me to make a decision. I reached a different conclusion to the adjudicator, so I issued a provisional decision – an extract follows and forms part of this final decision. I asked both parties to send in any comments or new information by 28 February 2022.

Extract from my provisional decision

I can see Likely Loans asked for some information from Mr K before it approved the loan. It asked for details of his annual income (£29,000) and his residential status (tenant). It asked about the purpose of the loan which was 'other'. It also checked Mr K's credit file. It has shared what it says is a high-level overview of the customer's financial status upon application but adds that this represents just a small proportion of the data it gathered. From what it has shared I can see it looked at the number of accounts Mr K had, his total credit balance, credit score and calculated a debt to income ratio. From these checks combined Likely Loans concluded Mr K had enough monthly disposable income to afford to repay the loan.

I don't think these checks were proportionate. Based on the information it initially gathered I think Likely Loans should have gone on to carry out a fuller financial review before agreeing to lend. I say this because it knew from the credit check that Mr K already had around £12,000 in unsecured debt across three accounts. Whilst he was up-to-date on his repayments on this existing debt I think the lender ought to have better checked increasing his debt would be sustainable. In these circumstances, and given the term of the loan, I think it ought to have taken steps to both verify his declared income and understand his total monthly expenditure. In the regulations that were in place at the time, CONC 5.3.1(G) section 4) b) stated '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'.

I have therefore looked at what better checks would most likely have shown the lender. To do this I have looked at screenshots of transactions from Mr K's online banking. I have requested full bank statements, but Mr K has not provided them to date. Whilst more complete evidence would be preferable, the extracts have allowed me however to identify a number of issues. So I have made findings based on the balance of probabilities, in other words what I think is most likely given the available evidence.

The screenshots show that Mr K's income was lower than he declared at around £1,650 each month. This means that by giving this loan Likely Loans was increasing the amount of income he needed to use to repay debt to around 40% - a level at which I think it ought to have realised there was a risk the loan would not be sustainably affordable for him. In other words, he would likely need to borrow to repay, or would suffer other adverse financial consequences. And to meet its regulatory obligations the lender needed consider this, not just the pounds and pence affordability.

Mr K said he was already borrowing from family and friends and his bank statements support this. In July 2018 it seems he borrowed around £2,350 from family and friends so he was clearly having problems managing his money. And there was a substantial increase in his balance between 23 and 27 July 2018 which Mr K thinks was most likely a win from gambling - further indicating his financial instability.

It follows I currently think Likely Loans was wrong to lend to Mr K.

I haven't found evidence that Likely Loans acted unfairly or unreasonably towards Mr K in some other way.

I then set out what Likely Loans would need to do to put things right if I went on to uphold the complaint.

Neither party responded to 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.

Our approach to unaffordable/irresponsible lending complaints is set out on our website and I've followed it here.

As neither party replied to my provisional decision, I have no reason to change the findings or conclusion I set out in it. It follows I find Likely Loans was wrong to lend to Mr K.

Putting things right

It's reasonable for Mr K to have repaid the capital amount that he borrowed as he had the benefit of that money. But he has paid interest and charges on a loan that shouldn't have been given to him. So he has lost out and Likely Loans needs to put things right.

It should:

- Remove all interest, fees and charges on the loan and treat all the payments Mr K made as payments towards the capital.
- If reworking Mr K'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 of settlement*.

- If reworking Mr K's loan account results in an outstanding capital balance, Likely Loans should try to agree an affordable repayment plan with Mr K.
- Remove any adverse information recorded on Mr K'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 K a certificate showing how much tax it's deducted, if he asks for one.

My final decision

I am upholding Mr K's complaint. Oakbrook Finance Limited (trading as Likely Loans) must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 29 March 2022.

Rebecca Connelley
Ombudsman