

The complaint

Mr C complains Oakbrook Finance Limited trading as Likely Loans didn't complete reasonable and proportionate checks before approving him for two loans.

What happened

Mr C was approved for two loans with Likely Loans in October 2016 and July 2018.

Our investigator didn't uphold the complaint as he felt Likely Loans had made fair decisions to lend.

As Mr C didn't agree the complaint was passed to me to decide.

I issued a provisional decision recently where I set out, with reasons, why I thought Likely Loans didn't make a fair lending decision when approving loan two.

The following is an extract from that provisional decision.

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 Mr C'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 Mr C's complaint. These are:

- 1. Did Likely Loans complete reasonable and proportionate checks on Mr C to satisfy itself he was in a position to afford to repay each loan sustainably?
 - If so, did it make a fair decision?*
 - If not, would those checks have shown Mr C would have been able to do so?**
- 2. Bearing in mind the circumstances, at the time of each application, was there a point where Likely Loans ought reasonably to have realised it was increasing Mr C's indebtedness in a way that was unsustainable or otherwise harmful and so shouldn't have provided further loans?*
- 3. Did Likely Loans act unfairly or unreasonably in some other way?*

I've gone on to consider each of these questions in turn.

Did Likely Loans complete reasonable and proportionate checks on Mr C to satisfy itself he was in a position to afford to repay the loans sustainably?

Likely Loans needed to take reasonable steps to ensure it responsibly lent to Mr C. The relevant rules, regulations and guidance at the time Likely Loans lent required it to carry out reasonable and proportionate checks. These checks needed to assess Mr C's ability to afford the loan and repay it sustainably over its term without causing him financial difficulties.

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 borrower's individual circumstances.

And it isn't sufficient for Likely Loans to just complete proportionate checks – it must also consider the information it obtained from these checks to make a fair lending decision. This includes not lending to someone in financial hardship; and ensuring repayments can be made sustainably without having to borrow further.

I've taken all of this into account when thinking about each loan.

Loan one

Likely Loans has said it obtained details of Mr C's income, which he declared as around £32,000 per year, as well as completing a credit file check before approving this loan. It has said it entered information from the credit check into its internal credit scoring model and the result met its minimum approval threshold.

This was Mr C's first loan with Likely Loans and was for a relatively modest amount with relatively modest monthly repayments – so the proportionality of the checks should've reflected this. Mr C declared his income and Likely Loans obtained details of his credit commitments from its credit file check. Based on the information it obtained it identified Mr C had a low outstanding debt of £200.

I therefore consider there wasn't anything from the information Mr C provided, and Likely Loans obtained, that ought to have caused it concern or suggested it needed to complete further checks.

Therefore, I consider Likely Loans completed reasonable and proportionate checks in this instance.

Loan two

Likely Loans says it completed similar checks before approving Mr C for loan two. It obtained details of his income and completed a credit file check. It says it ran this information through its internal credit scoring model and the result met its minimum approval threshold. Likely Loans says it completed proportionate checks.

I've carefully considered Likely Loans' argument here, but I don't consider it did complete proportionate checks in this instance. I say this because Mr C was returning to Likely Loans within a two-year period for further finance. So, Likely Loans had a history with Mr C and was able to identify changes in Mr C's financial circumstances between the two applications.

The credit check Likely Loans completed shows Mr C's total number of active credit accounts had increased, as well as his total indebtedness. From the details it has provided, it's also evident some of the scores within the credit check had increased negatively, specifically the score relating to Mr C's likelihood of being able to meet repayments to borrowing. And bearing in mind this loan was a top-up of loan one, so Mr C was further increasing his indebtedness, I think at this point Likely Loans needed to understand Mr C's full financial circumstances, not just his income and credit commitments.

I consider Likely Loans ought to have verified Mr C's income and outgoings to ensure the repayments to loan two were sustainably affordable to him over the full term of the loan.

Where Likely Loans completed proportionate checks; did it make a fair decision to lend?

Loan one

Based on the information I've been presented with; I'm satisfied Likely Loans made a fair decision to lend loan one. I say this because the checks it completed demonstrated Mr C didn't have significant negative markers, or a large outstanding credit balance. These checks which Likely Loans completed demonstrated, on balance, that Mr C would have sufficient income to meet his outgoings and the monthly repayment. As such, I'm satisfied Likely Loans made a fair decision to lend at loan one.

Where Likely Loans didn't complete proportionate checks; would further checks have shown Mr C would have been able to meet the repayments sustainably?

Loan two

As I don't consider Likely Loan completed reasonable and proportionate checks when approving loan two, I've gone on to consider what further checks would have shown.

Likely Loans could have done this in a number of ways. Mr C has provided us with his bank statements covering a period of a month and a half before loan two was approved.

As I consider Likely Loans ought to have verified details of Mr C's income and outgoings, I've reviewed the statements he's provided to determine these. However, because of the short period the bank statements cover I'm only able to see a small snapshot of Mr C's financial circumstances before the lending.

Mr C's income is made up of his salary of around £1,900 per month and weekly credits of £125 which have the reference 'rent'. Across June 2018 he makes payments to credit providers totalling just over £1,200. Within this figure is a payment to a debt collector, which would have put Likely Loans on notice that Mr C had problems in the recent or historic past managing his money. There's a number of cash withdrawals across the month totalling over £750. But on a strictly pounds and pence basis the loan repayments of around £75 look affordable.

I note in Mr C's response to our investigator's assessment he made reference to his financial circumstances in the months following loan two being approved. But my review here considers the information Likely Loans would have had available to it at the point it approved the lending – not after. So, for this reason I've not considered Mr C's bank statements after loan two was approved.

So, having reviewed Mr C's bank statements covering the period up to loan two, I'm unable to conclude this loan was unaffordable to Mr C on a strictly pounds and pence basis. However, I think there are other reasons Likely Loans didn't make a fair lending decision when approving loan two; and I've gone on to explain why below.

Bearing in mind the circumstances, at the time of each application, was there a point where Likely Loans ought reasonably to have realised it was increasing Mr C's indebtedness in a way that was unsustainable or otherwise harmful and so shouldn't have provided further loans?

Loan one

I've not seen any evidence to suggest Likely Loans ought reasonably to have realised it was increasing Mr C's indebtedness in an unsustainable or otherwise harmful way.

Loan two

Likely Loans has provided our service with extracted data from the credit check it completed before approving loan two – it says it doesn't retain full details of the credit checks it completes. This data shows the number of Mr C's active credit accounts and his total level of borrowing had increased since its check at loan one, as well as other information about Mr C's financial circumstances.

Mr C provided Likely Loans with a copy of his credit report when it investigated his complaint in 2020. Likely Loans also completed its own credit check at this point too. It said, within its final response in October 2020, that the information within these files was in line with its own credit file investigation at the time of the lending. So, Likely Loans has confirmed it was aware of the CCJ and two defaulted mail order accounts on Mr C's credit file at the time it approved loan two. It hasn't provided any further details about these as part of its checks, except to say these details alone weren't enough to suggest it shouldn't have lent to Mr C.

I've carefully considered Likely Loans' argument here; but I'm not persuaded by it. I say this because I'm not satisfied Mr C's credit file demonstrates that further lending would likely be sustainable to him. The CCJ and defaults were all registered within a year of Mr C returning to Likely Loans for further finance. And while I acknowledge the increase in borrowing and monthly repayments towards loan two could be considered modest; Likely Loans was aware Mr C wasn't able to maintain any level of payment towards two mail order accounts, which would likely have had a minimum payment level no higher than 5% of the outstanding balance at the time.

The CCJ registered in June 2017 was around £940; and the two defaulted mail order accounts in March and April 2018 were registered as around £390 and £1,300. This indicated to Likely Loans that Mr C wasn't managing his finances well in the present and very recent past.

Likely Loans has said it calculated the repayments to loan two to be affordable to Mr C. However, it hasn't provided any calculations to support its conclusion – only that the information it put into its internal credit scoring model suggested the loan to be affordable. But I would suggest the evidence Likely Loans obtained as part of its credit file check didn't support its conclusion. Although the repayments towards loan two were relatively modest at around £75 per month, I question how sustainable this really was for Mr C. I say this because Mr C hadn't been able to maintain minimum payments towards the two mail order accounts, so I question how he would have sustainably maintained payments to this further borrowing. I think it was highly likely, and evident to Likely Loans, that Mr C wouldn't be able to sustainably meet his repayments without needing to take further credit to maintain his existing commitments. And this is supported as it appears Mr C wasn't able to maintain his repayments towards loan two within a couple of months of it being approved.

I consider Likely Loans had enough information from the outset to suggest Mr C wasn't managing his finances well and further lending was likely to be unsustainable or otherwise harmful to him. So, I'm satisfied Likely Loans didn't make a fair lending decision when approving Mr C for loan two.

Did Likely Loans act unfairly or unreasonably in some other way?

I've not seen any information which suggests Likely Loans acted unfairly or unreasonably in any other way in relation to Mr C's complaint.

Both Mr C and Likely Loans responded and accepted 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.

Having done so, and as both parties are in agreement with my provisional findings and have presented no further comments or evidence for me to consider, I see no reason to depart from my provisional findings.

It therefore follows I don't consider Likely Loans made a fair lending decision when approving loan two. This is for the reasons outlined in my provisional findings but in summary:

- The evidence Likely Loans obtained at the point it approved loan two suggested Mr C wasn't managing his finances well – and that his financial situation had deteriorated between loan one and loan two being approved;
- Mr C had defaulted on two credit accounts and had a CCJ registered against him within a year of loan two being approved;
- I'm therefore satisfied Likely Loans ought to have been aware that by approving loan two it was increasing Mr C's indebtedness in a way that was unsustainable or otherwise harmful to him.

Putting things right

To settle Mr C's complaint Oakbrook Finance Limited trading as Likely Loans should do the following:

- Add up the total amount of money Mr C received as a result of having been given loan two. The repayments Mr C made should be deducted from this amount; as well as any charges or fees associated with this loan.
 - a) If this results in Mr C having paid more than he 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 Oakbrook Finance Limited trading as Likely Loans should attempt to arrange an affordable/suitable payment plan with Mr C.
- After all adjustments have been made and once there is no outstanding balance, Oakbrook Finance Limited trading as Likely Loans need to remove any negative information recorded on Mr C's credit file regarding loan two.

I note the outstanding debt was sold to Cabot in September 2019. So, Oakbrook Finance Limited trading as Likely Loans need to take action to ensure the complaint is settled as detailed above.

† HM Revenue & Customs requires Oakbrook Finance Limited trading as Likely Loans to take off tax from this interest. Oakbrook Finance Limited trading as Likely Loans must give Mr C a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons set out above, and in my recent provisional decision, I'm upholding Mr C's complaint and direct Oakbrook Finance Limited trading as Likely Loans to put things right as detailed above.

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

Richard Turner
Ombudsman