DRN-3473661

Financial Ombudsman Service

The complaint

Mr V has complained that Lendable Ltd was irresponsible in lending to him.

What happened

In August 2021 Lendable provided Mr V with a loan of £5,000 repayable over 24 months. The monthly repayments were £293.08. After he struggled to repay the loan, Lendable put in place a reduced repayment plan.

Later Mr V complained that Lendable hadn't carried out proper checks before lending to him. He thought it should have seen that he had an issue with gambling.

Lendable looked into his complaint. It said it had carried out proper checks and it thought the loan was affordable. It said there was no indication of a gambling problem when he made his application for a loan.

Mr V referred his complaint to us. Our adjudicator upheld the complaint. He didn't think the checks carried out by Lendable before lending were proportionate.

As Lendable didn't agree, the matter has been referred to me.

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 general approach to complaints about unaffordable/irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website.

Having carefully thought about everything, I think that there are two overarching questions that I need to answer in order to fairly and reasonably decide Mr V's complaint. These two questions are:

1. Did Lendable complete reasonable and proportionate checks to satisfy itself that Mr V would be able to repay the loans without experiencing significant adverse consequences?

- If so, did it make a fair lending decision?
- If not, would those checks have shown that Mr V would've been able to do so?

2. Did Lendable act unfairly or unreasonably in some other way?

The rules and regulations in place required Lendable to carry out a reasonable and proportionate assessment of Mr V's ability to make the repayments under the agreements. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower-focused" – so Lendable had to think about whether repaying the loan would be sustainable. In practice this meant that the business had to ensure that making the repayments on the loans wouldn't cause Mr V undue difficulty or significant adverse consequences. That means he should have been able to meet repayments out of normal income without having to borrow to meet the repayments, without failing to make any other payment he had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on his financial situation.

In other words, it wasn't enough for Lendable to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Mr V. Checks also had to be "proportionate" to the specific circumstances of the loan applications.

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 seeking. Even for the same customer, a proportionate check could look different for different applications.

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

- the lower a consumer'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 greater the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr V's complaint,

Lendable has provided evidence to show that before lending it carried out various checks. Mr V told it his monthly income was £1,606. Lendable said it verified this online with a credit bureau to check it matched the amount paid into Mr V's bank account.

It also carried out a credit search. That showed Mr V was managing his accounts well with no defaults or arrears in the 12 months before he made this application. He owed a total of £1,047 according to the credit search. Lendable calculated that with its new loan Mr V would be spending around 25% of his income servicing his debts, leaving the balance for living and non-discretionary expenses.

Mr V was entering into a significant commitment with Lendable. He would need to make monthly repayments of £293.08 for a period of two years. So I would expect that Lendable would have wanted to gather at least some information about Mr V's normal living costs before it agreed to lend to him. I don't think it was enough to simply look at Mr V's income, and his credit commitments. I think it would have been proportionate for Lendable to have found out more about Mr V's expenditure so it could consider how much disposable income he would actually have. This is so it could be sure that Mr V was able to repay the loan in a sustainable way.

Mr V has provided us with a bank statement from the month before the loan was granted. I've carefully considered the information provided within this statement. Having done so, I can see that Mr V had taken out a loan of £10,000 shortly before he applied for this one. This loan had not shown up on the credit search that Lendable carried out. I think on seeing this, Lendable ought to have had concerns about Mr V's finances and the likelihood that he had become reliant on short term credit and was having problems with his finances. This conclusion is supported by transactions on Mr V's statements relating to gambling sites and involving large amounts.

Mr V says he had a serious gambling problem at the time he applied for this loan and the one that he obtained shortly before. He has pointed to this as the reason why he was requesting such a lot of short-term credit in a short space of time. I think if Lendable had carried out further checks, it would have seen that Mr V was unlikely to have been able to repay this loan without borrowing further and experiencing further financial difficulty. So, it follows I think Lendable was wrong to give Mr V this loan.

I've also thought about whether Lendable acted unfairly in some other way and I haven't seen any evidence that it did.

Putting things right

Mr V has had the benefit of the loan. But as the loan should not have been given to him, he should not have to pay interest or charges on what he borrowed. So, I direct Lendable to:

- remove all interest, fees and charges applied to the loan and treat all the payments Mr V has made as payments towards the capital amount of £5,000.
- if reworking Mr V's loan account results in him having effectively made payments above the original capital borrowed, then Lendable 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.
- but if there's still an outstanding balance, Lendable should come to a reasonable repayment plan with Mr V.
- remove any adverse information recorded on Mr V's credit file in relation to the loan.

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

My final decision

For the reasons given above, I uphold Mr V's complaint and require Lendable Ltd to put things right for Mr V as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 23 June 2022.

Elizabeth Grant
Ombudsman