DRN-3502322

The complaint

Mr H complains that Progressive Money Limited (PML) lent him money on a high cost loan which he was unable to afford to repay.

What happened

PML provided Mr H with a loan on 22 May 2018 for £10,000, repayable over 48 months at the rate of £410 a month.

Mr H complained that he couldn't afford the loan and entered a debt management plan to try and sort out his debts. He eventually paid off the loan, I believe with his father's help, in December 2021.

PML said it carefully assessed the affordability of the loan, reviewing Mr H's application with him, and two months' bank statements on his sole account and one month's joint account statement with his partner. It also verified his income and carried out a credit check. It said the credit check didn't evidence any defaulted accounts or County Court Judgements. He had provided evidence of having paid off a payday loan. It took into account his partner's contributions towards household bills and said the loan was affordable.

Our adjudicator said that Mr H had a very low or negative disposable income after taking into account the loan instalments. He had a high amount of debt and had very recently been using payday loans. He also noted that there was evidence that Mr H spent a considerable amount on gambling. He said the loan wasn't affordable and that PML should refund the loan interest and other charges.

PML didn't agree, pointing out that it had reviewed the payday loans and accepted the reason for them which Mr H said was for car expenses. It said the gambling evidence on Mr H's bank statements was questioned with him, and he provided a plausible reason and explained that he would not be gambling as this was only during the football season. It also said Mr H's income was higher than that set out in the affordability assessment. It further said that the loan was for part consolidation of loans, which were paid before releasing the balance to Mr H.

The matter has been passed to me for further consideration.

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 the relevant rules, guidance, and good industry practice - on our website.

Considering the relevant rules, guidance, and good industry practice, I think the questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did PML complete reasonable and proportionate checks to satisfy itself that Mr H would be able to repay the loan in a sustainable way?

- If not, would those checks have shown that Mr H would have been able to do so?

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

The checks had to be "borrower-focused" – so PML had to think about whether repaying the loan would be sustainable. In practice this meant that it had to ensure that making the repayments on the loan wouldn't cause Mr H 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 PML to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Mr H. Checks also had to be "proportionate" to the specific circumstances of the loan application.

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.

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 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).

The loan amount was for a considerable sum, payable over a long period. This represented a substantial monthly commitment for Mr H. So PML should have carried out a thorough assessment of Mr H's financial circumstances.

First of all, from reviewing Mr H's credit report, I've noted that he had five credit cards, four of which were near and one which was over the limit. The total balances on the cards amounted to around £10,900. None of the cards were to be paid off using this loan.

I think it fair to review this case from the point of view of PML's income and expenditure assessment. This concluded that Mr H had a negative disposable income of -£50. However it calculated alternatively that, assuming Mr H's partner paid half the bills, the disposable income would be £202. The money saved from consolidating the loans was accounted for. And whilst I think it's fair to allow for Mr H's partner to pay towards the bills, apart from a bank statement PML didn't obtain evidence of her personal circumstances and the loan was in Mr H's sole name, so he was solely responsible for payment. I can't take account of a possible higher income for Mr H as the income figure PML used was as set out in its assessment.

With the new loan payment of £411, I can't see that Mr H had sufficient disposable income to pay it. Nevertheless I've considered the bank statements PML saw and some further statements Mr G sent in. And whilst the statements don't show Mr H as being overdrawn by much, they did show substantial sums being paid out for gambling, in the two months PML saw, respectively £401 and £320. These figures were noted and highlighted by PML. Mr H's other statements show similar amounts being spent on gambling.

Given that it's hard to understand PML's acceptance of Mr H's statement that he "*would not be gambling as this was only during the football season*." If the football season ended in mid-May, I've noted that he spent a similar amount on gambling in his May – June 2018 statement. However accepting that that was after the loan, if PML accepted his reason for gambling, the football season generally lasts nine months, so I don't think PML should have accepted that Mr H would simply stop. If it was prepared to lend him the money knowing his expenditure it should have taken into account his average spending on gambling.

The other thing the statements show is that even in the two months before the application, Mr H had received funds from payday loans, including £1,200 on 4 May 2018. Whilst Mr H told PML this was for car expenses I can't see any evidence of this from the bank statements and PML didn't ask him for any such evidence.

To summarise Mr H was spending considerable sums on payday loans, on credit cards and on gambling. I don't think even taking into account his partner's contributions that he was in a position to afford the new loan instalments which added to his credit commitments even whilst paying some off. So I don't think that PML made a fair lending decision.

Putting things right

Mr H has had the capital sum for the loan and it's fair that he repays this. So I will require PML to do the following:

- Remove all interest, fees and charges applied to the loan.
- Treat any payments made by Mr H as payments towards the capital amount of £10,000.
- If Mr H has paid more than the capital, refund any overpayments to him with 8%* simple interest from the date they were paid to the date of settlement.
- Remove any adverse information about the loan from Mr H's credit file.

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

My final decision

I uphold the complaint and require Progressive Money Limited to provide the remedy set out under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 11 July 2022.

Ray Lawley
Ombudsman