

The complaint

Mr I has complained that 1Plus1 Loans Limited (“1Plus1 Loans”) did not conduct an adequate affordability assessment before granting him a loan which he says was unaffordable for him.

What happened

Mr I is represented by a Claims Management Company but for clarity I’ll refer to Mr I in relation to both their representations and his own.

On 9 April 2019 Mr I took out a loan with 1Plus1 Loans for £3,750.00. The monthly repayment was £142.97 over 60 months and the total repayable was £8,578.20.

Mr I has said that if affordability had been reviewed effectively, 1Plus1 loans would not have provided the loan. He said that 1Plus1 Loans also failed to advise him of alternative means of dealing with his circumstances, including free debt management advice. Mr I is now in financial difficulty including being behind on his rent and council tax bills.

1Plus1 Loans didn’t uphold Mr I’s complaint – it said it provided Mr I with an “Adequate explanations” document with his loan documents which signposts free sources of debt help and advice. It also said it carries out appropriate checks including two detailed conversations with Mr I.

Our investigator recommended the complaint should be upheld. She said the information 1Plus1 Loans’ gathered showed Mr I’s finances were not stable and that he was unlikely to be able to make his repayments sustainably. Our investigator shared a copy of Mr I’s full credit file to 1Plus1 Loans.

1Plus1 Loans disagreed and said as a sub-prime lender, Mr I’s poor credit history was factored into its risk assessment. The defaults on Mr I’s credit file were from 2015 and it thought Mr I had provided an acceptable explanation for the issues with his utility bills. It emphasised that it was entitled to rely on the information Mr I provided to it at the time of application. 1Plus1 Loans also said Mr I had declined to reassess his finances with it and continued to make repayments.

As 1Plus1 Loans did not agree with our investigator, the complaint was passed to me to decide. Upon review of the complaint, I requested a copy of Mr I’s bank statements for the three months leading up to the lending decision. I issued my provisional decision on 25 April 2022 explaining why I intended to uphold the complaint. 1Plus1 Loans was provided with a copy of the bank statements I was relying on at the same time.

Mr I accepted my provisional decision but 1Plus1 Loans didn’t respond by the deadline provided. So I’ve re-reviewed everything for my final 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.

As no new information has been provided since my provisional decision, I am still upholding this complaint for the same reasons. I'll set these out below.

The relevant regulations and guidance are included in the Financial Conduct Authority's Consumer Credit Sourcebook (CONC). 1Plus1 Loans was entering a regulated credit agreement. So, it had to carry out a reasonable assessment of Mr I's creditworthiness before it entered the agreement. The checks also had to be borrower-focused. So 1Plus1 Loans needed to think about whether repaying the credit sustainably would cause any difficulties or adverse consequences for Mr I.

Checks had to be proportionate to the specific circumstances of each loan application. In general, what makes up a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer. For example, their financial history, any foreseeable changes in future circumstances, and any indications of vulnerability or financial difficulty. The amount, type, length of borrowing and cost of credit they have applied for would also be considered.

In light of this, I think the greater the potential risk to the consumer of not being able to repay the credit in a sustainable way, the more thorough a reasonable and proportionate check ought to have been.

I've kept all of this in mind when thinking about whether 1Plus1 Loans did what it needed to before agreeing to lend to Mr I, and have considered the following questions:

- Did 1Plus1 Loans complete reasonable and proportionate checks when assessing Mr I's loan application to satisfy itself that he would be able to repay the loan in a sustainable way?
- If not, what would reasonable and proportionate checks have shown and did 1Plus1 Loans make a fair lending decision?

1Plus1 Loans has told us that before it approved the loan, it confirmed that this loan would be used to consolidate other debt and for home improvements. It checked Mr I's credit file, and electronically verified his income and bank account. It asked for details of Mr I's income and expenditure and its agents questioned Mr I on the information he provided. Based on these checks, 1Plus1 Loans offered a lower loan amount than Mr I had originally applied for and concluded at this amount, that Mr I would have sufficient disposable income for the loan to be affordable.

Mr I's credit report at the time showed he had defaulted on three accounts in 2015, but I agree his more recent credit history is most relevant. There were the following indications that his financial position was not stable at the time and he was having problems managing his money:

- Mr I had taken out three loans within the previous six months, before approaching 1Plus1 Loans for further lending.
- On two active credit cards, Mr I's borrowing was consistently hitting the upper credit limit in the months preceding this loan being taken.
- Mr I had sustained arrears on his gas/electricity and water bills in the six months before the loan was taken.

- Mr I took out a short-term loan in January 2019 and immediately went into arrears.

This activity is indicative of someone struggling financially and is inconsistent with the disposable income of over £1,300 per month that formed part of 1Plus1 Loans' assessment. So, I don't think it was reasonable to conclude Mr I could sustainably repay the lending that was granted at this point.

Under this loan Mr I would need to make repayments for five years which is a significant commitment. I can see that 1Plus1 Loans asked Mr I questions before agreeing the lending, but in the circumstances, I don't think it was reasonable to accept his limited explanations.

I agree customers have a responsibility to provide accurate information, but I don't think it's reasonable for 1 Plus 1 Loans to have taken this at face value when it has contradicting information bearing in mind its obligations to lend responsibly. For example:

- When asked about going into arrears on the January 2019 loan, Mr I didn't provide an explanation aside from to say he had made a payment – 1 Plus 1 Loans would need to have understood why he went into arrears in the first place to assess this properly.
- Similarly, when asked about the arrears on his utilities (which are essential household bills) Mr I said he had problems with the direct debit and had arranged a repayment plan. No evidence was provided from his bank to support this, and it is unlikely Mr I would need a repayment plan if this was the case and he had the disposable income declared here.
- In addition, it is unclear why Mr I would need to take a loan to consolidate his debts if he had this level of surplus income.

1Plus1 Loans provided the loan based on a 5.11% payment to income ratio and an unsecured debt to income of 55.68%. However, the figures used didn't factor in all debt in Mr I's name and on occasion, halved the debt that was solely in Mr I's name based on Mr I saying he splits it with his wife. Based on the information available, I don't think 1Plus1 Loans did enough to verify what Mr I's real income and expenditure was.

For these reasons I don't agree that the checks conducted were reasonable and proportionate based on the information available to 1Plus1 Loans at the time. I would expect them to have sought to further understand Mr I's financial situation before agreeing to lend.

Having established that 1Plus1 Loans failed to conduct reasonable and proportionate checks, I need to look at what proportionate checks would likely have shown 1Plus1 Loans and consider whether this would have affected its decision to lend to Mr I. We can't now know exactly what these checks would have been, so I've reviewed Mr I's bank statements for the three months preceding the loan as one way of getting a fuller understanding of Mr I's financial position at the time of lending.

1Plus1 Loans have provided information which indicates Mr I declared his monthly income to be £3,200.00. 1Plus1 Loans used CATO (Current Account Turn Over) to determine Mr I's income after tax was £2,800.00 per month and confirmed Mr I had been receiving this amount for the last 6 months. Having reviewed Mr I's statements, I can see that he received an average monthly income of £1,904.54 from his employer. Any additional funds received into his account were via bank transfer from third parties or from short term lending which Mr I was using regularly. He appears to have been in a cycle of debt with short term lenders which was not included in his expenditure or on the matter of which existing debt could or should be consolidated.

Mr I's statements also show he was paying back the loans and some bills in full from his account. I haven't seen anything to support that his wife was supplementing half of the expenditure.

This means that both Mr I's income was lower than declared and his expenditure was higher than declared. He was spending more than he had coming in each month and couldn't have reasonably afforded to pay another loan. Even if it was for consolidation of some existing debt, his overall indebtedness was still increased.

It follows that if 1Plus1 Loans had completed proportionate checks, it would have likely realised that the loan repayments would not be sustainable for Mr I and he was therefore unlikely to be able to repay it without borrowing further or suffering other adverse financial consequences. So as a responsible lender, it would have decided not to approve his application.

1Plus1 Loans has said it did signpost Mr I to free debt advice, so he would have known about this option. But this doesn't change that the lending was not affordable for Mr I. Whilst he may have continued to meet his repayments, this appears to have been at the expense of not paying for essential expenditure such as his rent and council tax.

Putting things right

When considering how best to put matters right, I think it's reasonable for Mr I to repay the capital amount that he borrowed as he had the benefit of that money. But I don't think he should need to pay interest and charges on a loan that shouldn't have been provided. I also think 1Plus1 Loans should remove any adverse information recorded on Mr I's credit file.

My final decision

My final decision is that 1Plus1 Loans Limited should do the following to put things right:

- Remove all interest, fees and charges on the loan and treat all the payments Mr I has made as payments towards the capital.
 - If this results in Mr I having effectively made payments above the original capital borrowed, then 1Plus1 Loans should refund these overpayments and pay 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement*.
 - If, however reworking Mr I's loan account results in there being an outstanding capital balance 1Plus1 Loans should work to agree an affordable repayment plan with Mr I.
- Remove any adverse information recorded on Mr I's credit file in relation to the loan.

*HM Revenue & Customs requires 1Plus1 Loans to deduct tax from this interest. 1Plus1 Loans should give Mr I a certificate showing how much tax it's deducted, if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 27 June 2022.

Stephanie Mitchell
Ombudsman