

The complaint

Mr Z has complained that Mobile Money Limited ("MML") was irresponsible to have agreed credit for him.

What happened

MML provided Mr Z with a loan of £2,300 in June 2019. The total amount of £4,815, including interest and charges, was to be repaid in 18 monthly instalments of £268 (all figures rounded).

This was a 'log book' loan, in other words it was granted on the basis that Mr Z provided MML with a bill of sale for his car. This meant that if he didn't make his loan repayments MML could potentially recoup its losses through the sale of his vehicle.

I understand Mr Z didn't manage to meet his repayments from the onset and fell into arrears. He paid various amounts over two years, repaying £5,078 in total. He made his last payment in June 2021, leaving a balance of £362.

Mr Z said that MML shouldn't have agreed to lend to him given his chequered credit history. He says the loan was unaffordable and he was unable to keep up with the repayments, which has impacted negatively on his credit file.

One of our investigators looked into Mr Z's complaint and recommended that it be upheld. They found that MML didn't carry out proportionate checks before lending to Mr Z and such checks would likely have revealed that the loan would be unaffordable for him. They recommended that MML refunds any interest and charges that Mr Z paid above the principal he borrowed, and that it removes any adverse information about this loan from his credit file.

MML didn't accept this recommendation and asked for the complaint to come to an ombudsman to review and resolve. The complaint came to me and I issued a provisional decision on 13 May 2022 explaining to both parties why I didn't think Mr Z's complaint should be upheld. Mr Z didn't agree with my findings and asked for copies of the information I'd relied on in making my provisional decision. These were sent to him, including a record of the affordability assessment MML carried out and a copy of the credit file information it obtained at the time.

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.

Mr Z made a number of points in response to my provisional findings. In summary, he said that MML's record of his income and expenditure contained inaccuracies and inconsistencies, and there was evidence of financial difficulty on his credit file report. Mr Z says that this shows MML didn't carry out a proportionate check of his circumstances before lending to him.

I want to reassure Mr Z that I have carefully considered everything he's said and reviewed my provisional conclusions in the light of his response. Having done so, I remain of the view that MML's checks were proportionate on this occasion and it wasn't irresponsible when it agreed to lend to him. I appreciate this will be very disappointing for Mr Z and I will set out again my reasons for not upholding his complaint and address his additional points where relevant.

As I'd said in my provisional decision, MML will be aware of the rules and regulations, so I will summarise its obligations. MML needed to check that Mr Z could afford to meet his repayments out of his usual means without having to borrow further, without missing any of his existing obligations and without experiencing significant adverse impacts. MML was required to take reasonable steps to estimate Mr Z's income and (non-discretionary) expenditure and to estimate any reductions in income where it was reasonably foreseeable that a reduction was likely.

MML also needed to have regard to any information of which it was aware at the time that might have indicated that Mr Z was in, had recently experienced or was likely to experience, financial difficulties.

The overarching requirement was that MML needed to pay due regard to Mr Z's interests and treat him fairly. CONC 2.2.2G(1) gave an example of contravening this requirement as "targeting customers with regulated credit agreements which are unsuitable for them by virtue of their indebtedness, poor credit history, age, health, disability or any other reason."

MML says that Mr Z was taken through an in-depth income and expenditure assessment over the telephone before the loan was approved but hasn't been able to provide the call recording. It has provided a record of its assessment, along with a copy of Mr Z's payslips and his credit file obtained at the time.

In my provisional decision I said the following about the assessment MML carried out:

"Mr Z gave his net monthly income as £2,305 and his monthly expenses as £2,054 including the loan repayment. Mr Z's payslips confirmed his income and MML estimated that he would have a monthly surplus of £136. His recorded expenses include £250 of monthly savings and £200 of expected costs for rent and board when Mr Z moved back in with his parents. The assessment doesn't record what Mr Z's existing costs were for his rent and he's told us it came to about £900 a month. However Mr Z also confirmed with us that the figure of £200 was correct, that he moved back in with his parents when his tenancy ended in July 2019 so I've assumed this accounted for his rent and board during the loan term.

Mr Z's credit file from the time shows that he had about £6,000 of existing debt comprising an overdraft of £4,245 (down from almost £8,000 taken out in February/March 2019), an overdraft of £967 (with an account started in March 2019), a utility bill of about £300 and an unsecured loan of £547. There was no adverse information recorded, though I did note

Mr Z's recent increase in debt and that he seemed to have some recently cleared balances including a loan balance of over £7,800 in March 2019. It seems MML saw this also as the assessment notes say that Mr Z had taken on a recent overdraft to help his partner with her business costs.

Bearing in mind that Mr Z could potentially lose his car if he was unable to meet his repayments over the loan term, I think MML was right to ask Mr Z to verify the

information he provided. I think it took reasonable steps to verify his income and understand his existing credit commitments. The affordability assessment shows MML increased some costs to reflect its guidelines and considered that Mr Z shared the household bills of £171 with his partner. As mentioned above it seems MML queried some of Mr Z's costs and noted that his circumstances were changing, though I haven't seen anything which suggests his costs would increase.

From the information I've seen I think that the loan repayments would have appeared affordable for Mr Z and they were not so high relative to his income that there was a clear risk he wouldn't be able to meet them over the loan term while meeting his other commitments. In addition, there weren't clear indicators of financial difficulty in the information MML had. Taking everything into account, I have come to the provisional conclusion that the checks MML carried out on this occasion were proportionate and there wasn't enough of concern in the information it gathered which should have prompted it to make further enquiries of Mr Z before lending to him."

In response to my provisional decision, Mr Z said that it had not been proven that MML carried out reasonable or proportionate checks on his creditworthiness or whether or not he could afford to meet the loan repayments. For example, Mr Z says that MML's assessment recorded the total household income as more than his income, which he confirmed as being about £26,000 net a year. While there is a figure for the total household income, I can see that MML based the assessment on Mr Z's net income alone. Mr Z also says that MML didn't ask him whether his income was anticipated to change in the future. However, the payslips he'd provided at the time didn't show that his income fluctuated or that it wasn't a guaranteed amount so in this case I don't think it was reasonably foreseeable that there was likely to be a reduction in his income.

Mr Z says that MML should not have taken into account that his rent was about to decrease because it was not a given that he would move into his parents' property and so pay less rent. The regulations state that a business can only take into account an expected future decrease in non-discretionary expenditure where it reasonably believes on the basis of appropriate evidence that the decrease is likely to happen during the term of the agreement. As I explained in my provisional decision, MML hadn't taken Mr Z's existing rent costs into account however, he confirmed with us that these costs did in fact reduce the month after the loan was taken out as he moved back into his parent's property. So, even if MML had looked into this point in more detail, I don't think it would have learnt that Mr Z's rental costs would render the loan unaffordable.

Mr Z says that MML estimated that his net surplus each month would be about £136 and that this wasn't a reasonable amount to be left with. I'd noted the estimated surplus amount and checked that this was the amount left over after Mr Z had met his MML loan payment each month. I'd also noted that Mr Z said at the time that he saved £250 a month which MML included as a usual monthly cost. So I think it would have seemed to MML that Mr Z had potentially more than £136 surplus each month, although he has since told us that that he hadn't in fact been saving money at that time.

Mr Z also told us that the bills were not shared with his partner as she was on a low income and that other monthly costs he had, such as child support of £160 and nursery fees of £500, were not included. The regulations state that a business must not accept an application for credit where it knows or has reasonable cause to suspect that the customer has not been truthful in completing the application. It's not unusual or implausible that Mr Z shared some household costs with a cohabiting partner and it seems from the assessment record that these were discussed in some detail with him. The assessment record includes questions about child costs such as nursery costs and maintenance payments but records

these as zero and Mr Z's application states he had no dependents, so I don't think MML had any cause to suspect that Mr Z had such costs when he made his application.

Finally, Mr Z says that his credit file showed missed payments on recent loans and that he'd taken out large amounts on overdraft facilities. As I'd said in my provisional decision Mr Z explained to MML that he'd taken out an overdraft for home improvements and to help his partner with business costs. And while there are late payments on some of his accounts, these were on accounts which had been settled at least six months prior to taking out this loan. Altogether, I don't think the amount or management of Mr Z's existing accounts would have caused concern for MML to the extent that it should have declined to lend to him or carried out further investigation before doing so.

Mr Z has explained to us that he gambled at the time and misappropriated funds in order to do so. I can see from Mr Z's credit file that he had several active bank accounts and he's provided statements for some of these. Had MML looked for more information about Mr Z's circumstances, for example had it asked him for bank statements, I think it's likely that whichever bank statement he provided would have shown large balance variations (from an overdraft of £8,000 to a surplus of £63,000) in the preceding weeks and months. Three of the bank accounts show large amounts (several thousands) spent on gambling on many occasions. However, as I've explained above, I don't think that MML should have looked into his circumstances further before lending to him or that it was irresponsible to have agreed to lend to him on the basis of the information it had.

Mr Z told us that he lost his job in late 2019. I can see from the loan account that he hasn't managed to meet his agreed repayments and that a, relatively small, balance remains outstanding. I'd remind MML about its obligation to treat Mr Z fairly and with due consideration and forbearance. Given it is now aware of Mr Z's circumstances when it agreed to lend to him, it could consider, for example, waiving the outstanding balance on this account if he is experiencing financial difficulty at this time.

My final decision

For the reasons set out above, I'm not upholding Mr Z's complaint about Mobile Money Limited and so don't require it to pay him any compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 15 July 2022.

Michelle Boundy
Ombudsman