The complaint

Mr A complains that OAKBROOK FINANCE LIMITED trading as Likely Loans lent him money on high cost loans which he couldn't afford to repay.

What happened

Likely Loans provided Mr A with the following loans:

	Date of loan	Amount	Term	Instalment*	Date repaid
Loan 1	13/7/2016	£2,000	12 months	£232	10/10/2016
Loan 2	31/8/2017	£5,000	60 months	£221	15/10/2019
Loan 3	23/12/2019	£4,000	36 months	£212	2/9/2020
Loan 4	4/11/2020	£5,000	36 months	£244	18/11/2020

*rounded up

Mr A repaid all the loans in time and repaid loan 4 within 14 days by taking out a lower cost loan. He said that the loans were unaffordable to him as he was heavily in debt due to his problems with online gambling. He believes that if Likely Loans had checked his credit report or asked for his bank statement before providing the loans, it would have found them to be unaffordable. Over the period he says he had over 50 payday loans and other loans with high interest providers.

Likely Loans do not have an actual credit report from the time of this application. The credit file data is extracted from the credit reference agency, in a coded format and is processed electronically. It has provided this data for each loan, together with the data from each loan application. For loans 1 and 2 it said that had the loans been applied for today, it would have assessed Mr A's expenditure based on ONS (Office for National Statistics) data, which it did use for loans 3 and 4. Nevertheless it assessed that each loan was affordable, Mr A having sufficient monthly disposable income to pay for them.

Our adjudicator accepted that for loans 1,2 and 3, Likely Loans had made a fair lending decision. However, he said that for loan 4, as Mr A's credit commitments had gone up substantially since the issue of loan 3, Likely Loans should have investigated Mr A's finances more thoroughly. Likely Loans agreed with the adjudicator's view and offered to pay back the interest payments for loan 4 with added interest on those payments.
Mr A disagreed, pointing out that if Likely Loans had asked for bank statements it would have discovered his gambling which was a huge problem for him during the period of the loans. He has supplied bank statements for the two months around the application for loan 3 and similarly for loan 4.

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 Likely Loans complete reasonable and proportionate checks to satisfy itself that Mr A would be able to repay the loans in a sustainable way?

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

The rules and regulations in place required Likely Loans to carry out a reasonable and proportionate assessment of Mr A'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 Likely Loans had to think about whether repaying the loans would be sustainable. In practice this meant that Likely Loans had to ensure that making the repayments on the loans wouldn't cause Mr A 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 Likely Loans to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Mr A**.** 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).

All the loans represented a considerable commitment for Mr A, both in terms of the length of time over which the loans were to be repaid and the amount of those instalments. This meant that Likely Loans should carried out a thorough though proportionate assessment of Mr A's financial circumstances.

loan 1

The credit check showed that Mr A had revolving credit (e.g. credit cards, mail order accounts) commitments totalling just over £7,000 and non-revolving credit (loans) of just under £4,000. His monthly income was assessed at £2,079. This meant that with the new loan his credit commitments would have been about 38% of his income, a rather high figure which could have indicated that the loan was potentially unaffordable.

Likely Loans assessed however that, applying ONS data Mr A would have had around £480 monthly disposable income after paying the new loan instalment. So on the face of it, the loan was affordable. I have considered whether Likely Loans should have been alerted to anything in the checks it did to carry out more investigation of Mr A's finances e.g. by looking at bank statements. The record showed he hadn't had any recent payday loans and that he had had defaults in the past though not for two years. There was no indication that he had had an overdraft. So, I think the indications appeared to be that though he had struggled in the past, he was paying his debts. This was his first loan with Likely Loans so I think it did carry out a proportionate assessment. By that I mean that it did the checks necessary to establish if Mr A could afford the loans. It wasn't required to carry out a full forensic investigation of his circumstances.

The rules I've referred to don't require loan providers to ask consumers to provide bank statements, but if Likely Loans had looked at Mr A's bank statements or carried out any other checks I don't know what it would have seen, as Mr A hasn't provided a statement for the period around the issuing of this loan. So I don't know if it would have shown any gambling transactions, whether the gambling was getting out of hand or any other debts.

loan 2

The credit check for this loan showed that, having paid off loan 1, Mr A no longer had any payments due on loans. His revolving credit payments had reduced by over £700. This meant that, with the new loan instalment his credit commitments represented about 22% of his income. And his disposable income was assessed at over £1,100. All the indications were that Mr A was getting his finances back on track. A credit check won't necessarily show all the debts the consumer has, as not all loans/credit are registered with all the agencies. But again Mr A didn't appear to be overdrawn, and I can't see anything in the checks Likely Loans did to indicate that the loan wasn't affordable.

loan 3

By the time Mr A applied for this loan, his revolving credit commitments had gone down, by nearly £2,000. He had no new loans, according to the credit check, and had paid off loan 2. His assessed income had gone down, but still his credit commitments (including the new loan) I've assessed at being just over 20% of his income. And his disposable monthly income remained at around £1,100. So again I think Likely Loans did proportionate checks and nothing in those checks in my view would have alerted it to carry out further checks. So I think it made a fair lending decision.

This is the first loan for which we have seen Mr A's bank statements. They showed that he had had a short-term loan of £1,400 but he had repaid that within two weeks so it wouldn't have been of any concern. The statements do show that Mr A was spending huge amounts on gambling (over £61,000 in October to November 2019). But if that statement is anything to go by he was receiving back more than he paid out which may explain why it didn't reflect on his overall credit. As I've said I can see nothing in the checks Likely Loans did to alert it to carry out more investigations. And whilst I understand that Mr A felt unable to say he had a gambling problem, nevertheless loan providers will be reliant on consumers telling them about any debts that may not be shown in normal checks. If a business suspects that a consumer isn't telling the truth then of course it should carry out further enquiries. But I can't see in this case that it had any reason to doubt what Mr A was telling it.

loan 4

As Likely Loans has accepted the adjudicator's view in respect of this loan, I won't make any further comment, but will make directions accordingly.

Putting things right

Mr A has had the capital sum in respect of loan 4 and it's fair for that sum to be repaid. In respect of loan 4 Likely Loans should:

- Remove all interest, fees and charges applied to the loan.

- Treat any payments made by Mr A as payments respectively towards the capital amounts.

- If Mr A 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, if appropriate, about the loan from Mr A's credit file.

*HM Revenue & Customs requires Likely Loans to take off tax from this interest. It must give Mr A a certificate showing how much tax it's taken off if he asks for one.

My final decision

I uphold the complaint in respect of loan 4 and require OAKBROOK FINANCE LIMITED trading as Likely Loans to provide the remedy set out under "Putting things right" above.

I don't uphold the complaints in respect of loans 1,2 and 3.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 3 August 2022.
Ray Lawley
Ombudsman