DRN-3616348

Complaint

Mrs H has complained that Lendable Ltd ("Lendable") irresponsibly lent to her.

Background

Lendable provided Mrs H with a loan for £5,000.00 in September 2019. This loan had an APR of 28.84% and a 36-month term. This meant the total amount repayable of £7,275.58, which included interest, fees and charges of £2,275.58, was due to be repaid in 36 instalments of just over £200. One of our investigators looked at this complaint and thought that Lendable unfairly provided this loan as proportionate checks would have shown it was unaffordable. Lendable disagreed and asked for an ombudsman to review the complaint.

My findings

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 the key rules, guidance and good industry practice - on our website. And I've referred to this when deciding Mrs H's complaint.

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 Mrs H's complaint. These two questions are:

1. Did Lendable complete reasonable and proportionate checks to satisfy itself that Mrs H would be able to repay her loan in a sustainable way?

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

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

<u>*Did Lendable complete reasonable and proportionate checks to satisfy itself that Mrs H would be able to repay her loan in a sustainable way?*</u>

Lendable provided this loan while it was authorised and regulated by the Financial Conduct Authority ("FCA"). The rules and regulations in place required Lendable to carry out a reasonable and proportionate assessment of Mrs H's ability to make the repayments under these 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 cause significant adverse consequences *for Mrs H*. In practice this meant that Lendable had to ensure that making the payments to the loan wouldn't cause Mrs H undue difficulty or adverse consequences.

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 Mrs 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.

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

- the *lower* a customer'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 *longer* the term of the loan (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make payments for an extended period); and

- 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).

There may also be other factors which could influence how detailed a proportionate check should've been for a given loan application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances.

I've carefully thought about all of the relevant factors in this case.

Were Lendable's checks reasonable and proportionate?

Lendable says that it carried out an income and expenditure assessment with Mrs H prior to providing her with her loan. It also carried out credit checks. Mrs H declared that she was earning around £2,221.00 net a month. Lendable also said that its credit checks showed that Mrs H had existing total debts of just under £2,000.00, spread across a credit card, an overdraft and an unsecured loan. And as far as it was concerned it was satisfied that this was enough to show that the monthly payments for this loan, of just over £200, were affordable.

I've carefully considered what Lendable has said. However, I'm mindful that Mrs H was being provided with £5,000 and was being expected to maintain payments for a period of three years. And in these circumstances, I would have expected Lendable to have verified Mrs H's income as well as get some idea of her living costs, before determining that she could make the monthly payments without difficulty.

I appreciate that Lendable may have cross-referenced Mrs H's declaration of income against information held by credit reference agencies. But I don't think that this is the same as verifying Mrs H's income, given credit reference agencies won't have had access to payslips or other records of Mrs H's income. Furthermore, I can't see how Lendable could have understood Mrs H would be able to keep up with the loan repayments for the term, when it appears to have no idea of what Mrs H's non-credit related expenditure was each month.

Bearing all of this in mind, I don't think that the checks Lendable carried out before providing Mrs H with her loan were reasonable and proportionate.

Would reasonable and proportionate checks have indicated to Lendable that Mrs H would have been unable to repay her loan?

As reasonable and proportionate checks weren't carried out before this loan was provided, I can't say for sure what they would've shown. So I need to decide whether it is more likely than not that a proportionate check would have told Lendable that Mrs H would've been unable to sustainably repay this loan.

Mrs H has provided us with evidence of her financial circumstances at the time she applied for this loan. Of course, I accept different checks might show different things. And just because something shows up in the information Mrs H has provided, it doesn't mean it would've shown up in any checks Lendable might've carried out. Furthermore, I want to make it clear that I'm not saying that Lendable was required to obtain copies of Mrs H's bank statements before lending to her either.

But, given I now have to recreate what proportionate checks are likely to have shown, in the absence of anything else from Lendable, I think it's perfectly fair, reasonable and proportionate to place considerable weight on Mrs H's statements as an indication of what her financial circumstances were more likely than not to have been at the time.

I've carefully considered the information provided. Having done so, it's clear that Mrs H's income was pretty much being used to meet her existing credit commitments and living costs. Furthermore, Mrs H's bank statements also show that she was significantly overdrawn too. I've seen what Lendable has said about what the purpose of the loan was recorded as at the time of the application. But even if I accept that the purpose of the loan was consolidation, I don't see how assuming that this would have been done was actually going to place Mrs H in a better position.

Bearing all of this in mind, I'm satisfied that reasonable and proportionate checks would more likely than not have demonstrated that Mrs H was already in a difficult financial position. And, in these circumstances, I find that reasonable and proportionate checks would more likely than not have alerted Lendable to the fact that Mrs H was in no sort of position to make the payments on this loan without suffering significant adverse consequences.

Did Lendable act unfairly or unreasonably towards Mrs H in some other way?

I've thought about everything provided. Having done so, I've not seen anything to suggest that Lendable acted unfairly or unreasonably towards Mrs H in some other way. So I'm not persuaded that Lendable did act unfairly or unreasonably towards Mrs H in some other way.

Did Mrs H lose out as a result of Lendable unfairly providing her with this loan?

As Mrs H paid and is being expected to pay a high amount of interest and charges on a loan that she shouldn't have been provided with, I'm satisfied that she has lost out as a result of what Lendable did wrong. So Lendable needs to put things right.

Fair compensation – what Lendable needs to do to put things right for Mrs H

Having thought about everything, I think that Lendable should put things right for Mrs H by:

- removing all interest, fees and charges applied to the loan from the outset. The payments Mrs H made, whether to Lendable or any third-party debt purchaser, should be deducted from the new starting balance – the £5,000.00 originally lent. If Mrs H has already repaid more than £5,000.00 then Lendable should treat any extra as overpayments. And any overpayments should be refunded to Mrs H;

- adding interest at 8% per year simple on any overpayments, if any, from the date they were made by Mrs H to the date of settlement†

- if no outstanding balance remains after all adjustments have been made, all adverse information Lendable recorded about this loan should be removed from Mrs H's credit file.

- if an outstanding balance does remain once all adjustments have been made, Lendable should get in contact with Mrs H to arrange an affordable payment plan. I'd also remind Lendable of its obligation to exercise forbearance and due consideration, if it intends to collect on an outstanding balance and it be the case that Mrs H is experiencing financial difficulty.

† HM Revenue & Customs requires Lendable to take off tax from this interest. Lendable must give Mrs H a certificate showing how much tax it has taken off if she asks for one.

My final decision

For the reasons I've explained, I'm upholding Mrs H's complaint. Lendable Ltd needs to put things right in the way set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 3 October 2022.

Jeshen Narayanan
Ombudsman