

The complaint

Miss D complains about a loan given to her by 1Plus1 Loans Limited.

What happened

In 2018, Miss D applied for a loan of £6,000 from 1Plus1 to consolidate other debts. This was declined but 1Plus1 offered her £4,000 instead for the same purpose. Miss D accepted that, and the loan was drawn on 2 May 2018. Miss D complains that the loan was unaffordable for her from the outset. She feels if 1Plus1 had carried out sufficient checks on her application, it ought to have refused to lend to her.

1Plus1 says it carried out reasonable and proportionate checks in line with its usual process based on the information Miss D provided. It had no concerns about her ability to afford the loan. Miss D disagreed and referred her complaint to us.

One of our investigators looked into the complaint. She said some information relating to expenditure recorded by 1Plus1 on the application differed from that given by Miss D. Our investigator noted two County Court Judgements (CCJs) and a default on Miss D's credit file which she'd said were all relating to payday loans from a long time ago. But the default was actually quite recent, and the account had been in an arrangement before defaulting following a sustained period of arrears. Miss D also had recent arrears on other accounts all within the last 12 months. Our investigator saw that during its assessment of the application, 1Plus1 recorded debts of less than £600. She noted the new loan would be increasing Miss D's indebtedness. Our investigator felt 1Plus1 ought to have realised Miss D would be unlikely to be able to sustainably repay the new loan.

Miss D accepted what our investigator said, but 1Plus1 didn't. As there was no agreement, the complaint has been passed to me for a 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.

Having done so I've reached the same conclusion as our investigator but for further reasons. I've explained my findings to 1Plus1 informally and asked it to make an offer to Miss D or explain why it doesn't think it should do so. It has not responded so I see no reason to depart from those findings and am setting out my formal decision now.

We've set out our approach to complaints about high-cost credit on our website – including the key relevant rules, guidance, good industry practice and law. I've considered this approach when deciding Miss D's complaint.

1Plus1 needed to carry out reasonable and proportionate checks to ensure that it didn't lend to Miss D irresponsibly. I think there are questions I need to consider in order to decide what is fair and reasonable in the circumstances of this complaint:

- Did 1Plus1 carry out reasonable and proportionate checks to satisfy itself that Miss D was in a position to sustainably repay the loan?
- If not, what would reasonable and proportionate checks have shown at the time?
- Did 1Plus1 make a fair lending decision?
- Did 1Plus1 act unfairly or unreasonably towards Miss D in some other way?

It's not about 1Plus1 assessing the likelihood of it being repaid, but it had to consider the impact of the loan repayments on Miss D. The fact that the loan was guaranteed by a third party and the potential for 1Plus1 to pursue the guarantor instead of Miss D, doesn't alter or lessen the obligation. Lenders are required to ensure a loan can be repaid sustainably by the borrower; that is, they should be able to repay the credit without undue difficulty, while being able to meet other commitments and without having to borrow further.

There is no set list of checks that 1Plus1 had to do, but it could take into account several different things such as the amount and length of the loan, the amount of the monthly repayments and the overall circumstances of Miss D.

Did 1Plus1 carry out reasonable and proportionate checks?

For the reasons explained by our investigator and outlined earlier, I don't think 1Plus1 carried out reasonable and proportionate checks on Miss D's application. It was clear that Miss D had suffered financially in the past leading to the CCJs and more recently, given the default and other arrears that were apparent on her credit file. There were clear signs that she was beginning to become under financial pressure.

Miss D applied for £6,000 to repay other debts. But 1Plus1 had only identified borrowing amounting to £600 or so. It seems likely therefore that Miss D was looking to increase her indebtedness. But 1Plus1 declined the initial request – albeit due to concerns it had regarding her guarantor's ability to repay that facility rather than Miss D's. But as we know it agreed to lend £4,000. As it doesn't appear to have identified what Miss D wished to repay, it's not clear that £4,000 would have been enough to resolve the current pressures she was facing. In the circumstances, I think 1Plus1 ought to have asked further questions of Miss D to ensure the loan was sustainable.

What would reasonable and proportionate checks have shown at the time?

There is no set list of checks a lender has to do, but in these circumstances, I think 1Plus1 ought to have asked further questions to identify the extent of the difficulties Miss D was beginning to go through. It could have done this by, for example, asking to see some of her bank statements to enable it to get a better understanding of her situation. I have done so to find out what 1Plus1 would have seen had it asked at the time.

Looking at the statements, it is clear there are a lot of gambling type transactions which were increasing in volume and value. The statement I have, runs from 14 February to 11 May 2018 (the loan was drawn on 2 May 2018 and can be seen on the statement).

From 14 February 2018 to the end of that month, these transactions totalled £108. For the month of March 2018, they totalled £1,539 which is more than Miss D's monthly income. They stepped up again in April 2018 with £2,725 of transactions for that month.

While of course, Miss D is free to spend her money as she wishes, the transactions do not indicate someone who is in control of their finances. And further, based on the numbers provided by 1Plus1, she was looking to significantly increase her indebtedness. So the

situation strikes me as one in which Miss D was cash hungry. While the statements show Miss D did receive some winnings, these can't be relied on to demonstrate the ability to repay the loan sustainably.

Did 1Plus1 make a fair lending decision?

I think 1Plus1 ought to have made further checks on Miss D's circumstances, and I've explained what it might have found had it done so. If it had carried out further checks, I think it ought to have reached the conclusion that Miss D would have been unlikely to be able to repay the loan sustainably. It follows that I don't think 1Plus1 reached a fair decision to lend to her.

Did 1Plus1 act unfairly or unreasonably towards Miss D in some other way?

I've carefully read, listened to and thought about all the evidence provided by each party to this complaint. Having done so, I don't think 1Plus1 has acted unfairly or unreasonably towards Miss D in some other way.

But I do think 1Plus1 should have refused to lend to Miss D, so I'm upholding her complaint.

Putting things right

When I find that a business has done something wrong, I'd normally direct that business to put the complainant in the position they would be in now if the mistake it made hadn't happened, as far as is reasonably practical.

In this case, that means putting Miss D in the position she would be in if she hadn't been given the loan. But Miss D was given the loan and used the money. So, I think 1Plus1 should:

- Calculate the total amount Miss D received from 1Plus1 and deduct from that figure the repayments she made to the loan.
 - If this results in Miss D having repaid more than she received, any overpayments should be refunded to her. Interest at a rate of 8% simple per year should be added to any overpayments from the date they were made until the date of settlement.*
 - If the calculation means there's still a balance for Miss D to pay, 1Plus1 should let Miss D know how much is outstanding and reach a suitable, affordable payment plan with her. I remind 1Plus1 of its obligation to treat customers fairly.
- Remove any negative information recorded on Miss D's credit file regarding the loan.

*If 1Plus1 considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss D how much it's taken off. It should also give her a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

My final decision is that I uphold this complaint. 1Plus1 Loans Limited should put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 20 March 2023.

Richard Hale

Ombudsman