DRN-3812197

The complaint

The complaint

Mr P complains through his representative that OAKBROOK FINANCE LIMITED trading as Likely Loans irresponsibly lent him money on high cost loans that he couldn't afford to repay.

What happened

Likely Loans provided Mr P with the following loans:

	Date of loan	Amount	Term	Monthly repayment	Date repaid
Loan 1	13/03/2018	£900	18 months	£79.97	19/10/2018
Loan 2	22/10/2018	£500	12 months	£57.98	16/07/2019
Loan 3	15/07/2019	£910.79	18 months	£80.92	24/02/2020
Loan 4	22/02/2020	£1,346.66	18 months	£119.65	03/09/2020
Loan 5	02/09/2020	£2,244.44	24 months	£170.49	30/08/2022

Mr P complained through his representative that Likely Loans failed to carry out proportionate checks at the time of Mr P applying for each loan, and as a result the loans were unaffordable.

Likely Loans initially rejected the complaints about all but the third loan, which it agreed had been provided irresponsibly. It said it carried out the necessary checks on Mr P's eligibility for the loans. These included obtaining a credit report, verifying Mr P's income and calculating his living expenses according to those declared on his application (which were higher than if it had used Office for National Statistics data) After further correspondence with this service, it also upheld the complaints about loans 4 and 5.

I issued a provisional decision. In it I said that I didn't think loans 1 and 2, in addition to loans 3-5 were responsibly lent.

Neither party responded to my provisional findings.

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.

My provisional findings are set out below in italics:

"*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 P would be able to repay the loans in a sustainable way?*
- *If not, would those checks have shown that Mr P 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 P'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 P 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 P. 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 such a 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).*

loan 1

Likely Loans hasn't provided a copy of the credit report it obtained on the loans, though it has set out its data extracted from those reports. From that data I can see that Mr P had two credit cards, one with an outstanding balance of £499 and the other £998. I assume that they were both right on their limit. I've also noted that Mr P had £11,254 in defaulted debt, the most recent default being seven months previously. He didn't appear to have made any provision for paying that debt.

Likely Loans allowed for a payment of 3% of the defaulted debts and credit cards in its calculation of his disposable income. Based on his monthly income of £2,115, and Mr P's self-declared living expenses of £1,300 Likely Loans calculated that he would have a monthly disposable income of over £360.

But I don't think that is realistic. Bearing in mind the high level of defaulted debt, I think, to realistically pay this off, a monthly payment of 5% of the balance should be allowed for. The same goes for the credit cards. Using these figures gives a monthly liability of £562.70 for the defaulted debts and £75 for the credit cards. And after taking into account living expenses this produces disposable income figure of £97. And Mr P's credit commitments as a proportion of his income would have been about 34%.

I think that Likely Loans carried out proportionate checks. But whilst the amount being loaned was relatively modest, I think that the disposable income figure and the level of credit commitments made this loan unaffordable.

loan 2

I've noted that Mr P repaid loan 1 shortly before taking out this loan – but I don't know how he obtained the funds to do that. This loan was applied for seven months after loan 1. By the time he applied for this loan Mr P hadn't paid off any part of the debts on the two credit cards he had previously had, and when he applied to Likely Loans, he now had four credit cards with balances respectively of £498, £1,384, £1,263, and £397. His defaulted debt balance remained exactly as it had been seven months previously which meant he had been unable to pay off any of that debt.

Nevertheless Likely Loans had to take into account that Mr P's debts needed repaying, and again I think a 3% monthly figure for this was unrealistic. Applying the same 5% figure to his defaulted debts and allowing £177 a month for the credit card repayments, £1,300 for living expenses and the cost of the loan produces a monthly disposable income of around £27. And again while the loan was relatively modest, I don't think this loan was affordable.

loans 3,4 and 5

I see that Likely Loans has agreed that these loans were irresponsibly lent. I think that was the right approach. I will add the necessary repayments for these loans in my directions below."

As neither party has made any comments on my provisional findings, those findings are now final and form part of this final decision.

Putting things right

Mr P has had the capital payment in respect of the loans, so it's fair that he should repay this. So far as the loans are concerned, I think Likely Loans should refund all interest and charges as follows:

- Remove all interest, fees and charges applied to the loans.
- Treat any payments made by Mr P as payments towards the capital amount.
- If Mr P 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.

- But if there's still an outstanding balance, Likely Loans should come to a reasonable repayment plan with Mr P..

- Remove any adverse information about the loans from Mr P's credit file.

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

My final decision

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

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

Ray Lawley
Ombudsman