

The complaint

Miss J complains of irresponsible lending by Lendable Ltd.

What happened

Lendable provided Miss J with a loan for £3,000 on 22 January 2022, repayable over 24 months at the monthly rate of £170.82. She complained to Lendable that the lending was unaffordable and that it didn't carry out sufficient checks - this had a detrimental effect on her mental health.

Lendable said it carried out all necessary checks before lending the money. These included verifying her income, carrying out a credit search and assessing her ability to pay the loan instalments. It assessed that the loan was affordable.

When she referred her complaint to the Financial Ombudsman Service Miss J said that because of her mental health difficulties she is a vulnerable person and didn't know what she was signing up to when taking out the loan. She wasn't aware of any costs, the monthly repayment or how long the loan was to be for. She had further mental health problems at around this time and was in the process of moving house because of domestic violence. Our adjudicator referred Miss J's complaint back to Lendable, suggesting that in light of her circumstances it should consider writing off the balance. She advised it of Miss J's mental and physical health problems. She explained that Miss J was unable to work and lived off her benefits. She also said that Miss J's daughter had taken on the payments for the loan.

Lendable carried out a new affordability exercise with Miss J, and asked for evidence of her finances and mental health. Having reviewed this further evidence Lendable assessed that Miss J was still able to afford the loan, so wouldn't agree to write off the balance of the loan. It did offer a temporary payment arrangement.

Our adjudicator reviewed the matter again. She said that on the basis of her financial circumstances, the loan was affordable to Miss J. However she said that overall, she didn't think Lendable had acted positively or sympathetically while considering Miss J's personal circumstances, particularly her mental health. She recommended that it write off the balance of the loan.

I issued a provisional decision. In it I said that the loan appeared to be affordable for Miss J. And I said that on our adjudicator referring it back to Lendable to consider writing off the loan, it could have dealt with Miss J's mental health issues more sympathetically, rather than treating it as just an affordability exercise. But on the evidence presented I didn't think I could justify requiring Lendable to take any further action.

In response Miss J said she didn't request the the loan be written off, and her daughter ensures the payments are made on time every month. She did however ask for the interest and other charges to be refunded. She said that the loan was issued to her when her mental health was at a low point and she was unaware of the cost of it when taking out the loan. She question what further evidence she needs to produce to show how she has suffered from mental health problems for a long time.

Lendable said it had no further points to make.

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:

“There are two elements to this complaint, firstly whether the loan was affordable to Miss J. And secondly whether in light of her circumstances, particularly her mental health, whether Lendable should have responded more sympathetically and written off the balance of the loan.

affordability/irresponsible lending

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 Lendable complete reasonable and proportionate checks to satisfy itself that Miss J would be able to repay the loan in a sustainable way?*
- *If not, would those checks have shown that Miss J would have been able to do so?*

The rules and regulations in place required Lendable to carry out a reasonable and proportionate assessment of Miss J's ability to make the repayments under the agreement. 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 be sustainable. In practice this meant that Lendable had to ensure that making the repayments on the loan wouldn't cause Miss J undue difficulty or significant adverse consequences. That means she 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 she had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on her financial situation.

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 Miss J. 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).*

I don't think that Lendable was aware, or ought to have been aware, that Miss J was vulnerable, and I've seen no evidence to suggest that. In this case, Miss J declared that she was living on benefits, and Lendable verified this. But that wouldn't be a bar to her being given a loan.

The credit report showed that, though Miss J had had past difficulties with some utility accounts, she now had £17 outstanding on one such account and £215 outstanding on another account. Miss J also had a credit card which was just on its limit of £200, an overdraft of £186 and a mail order account with £235 outstanding. I'm not clear what the loan was for, but Miss J would have been able to easily clear those accounts and still have over £2,000 left. Even with the repayments on those accounts. allowing for the £17 account to be cleared, a 10% payment per month on the electric account, 5% payments for the other accounts and the new loan instalment, she would have been paying about 18% of her income on credit commitments.

Miss J would have had about £1,000 income left to pay for her living expenses. The loan did appear to be affordable. Bearing in mind that at the time Lendable didn't know of her mental health problems, I can't say that it acted irresponsibly in providing the loan – I think it made a fair lending decision.

response to Ms J's circumstances

Once it received Miss J's initial complaint where she said she had mental health problems, I think Lendable did respond sympathetically in its final response letter. It said that it thought her loan was affordable but did say that it had noted her circumstances and marked her as a vulnerable customer. It also provided details of various organisations that could help with debt and advised her of various ways it might be able to help, including freezing interest, deferring payments, and setting up a payment arrangement. Miss J didn't respond to that letter and instead approached the Financial Ombudsman Service.

Our adjudicator referred this matter back to Lendable for it to consider whether in the light of Miss J's mental health problems, it should be writing off the balance of the loan. Miss J had said that because of her mental health problems for which she was on a lot of medication, she didn't know what she was signing up to when she took out the loan, and wasn't aware of the cost and the monthly instalment. She advised our adjudicator that her daughter was paying the loan instalments.

Lendable asked Miss J to complete an income and expenditure (I & E) review and for details of the mental health problems. So far as I can see she supplied her two latest bank statements with the I & E review. In respect of her mental health, so far as I can see she just produced evidence of the medication she was taking.

Lendable determined that Miss J was still able to pay the loan. It offered her a temporary payment arrangement if she was in temporary difficulties and asked her to suggest an amount she could pay before returning to full payments. It says that it offered to her to set up another person as an authorised user to run the account.

From the point of view of whether the loan should be written off, this would not usually be the remedy we think a business should be offering even when we make a finding of irresponsible lending. It would have to be a clear case where there would have been no prospect of the loan being repaid. In this case Miss J has been paying regular instalments on the loan and though she had still got an overdraft, she's still paying the loan from her account and there doesn't appear to be any payments in from her daughter to reimburse those.

I'm conscious of what Miss J says about her state of mind when applying for the loan but on the evidence I've seen I can't really say that that would be sufficient to justify writing off the loan. I think that Lendable could have treated her mental health issues more sympathetically when the matter was referred back to it. If it couldn't make a judgement on those it could have asked for more information, instead of just treating it as an affordability exercise.

However, without further evidence of Miss J's mental health I can't say that its approach was unreasonable.

If Miss J wants to consider Lendable's offer of a payment arrangement or if she wants to provide it with further evidence of her mental health, she should get in touch with it directly. I note its offer to set up an authorised user on the account if she doesn't feel she is able to this herself."

I understand Miss J's points, but if Lendable were to be required to refund interest and other charges I would need to find that the loan was unaffordable. And from the evidence I've seen I can't say that Lendable was wrong to assess that the loan was affordable. And whilst I do sympathise with Miss J's mental health issues, the evidence seems to suggest that she could afford the loan and has been managing to make the payments for it without suffering financial distress.

I can't advise her what evidence she would need to support her assertion that she didn't know what she was signing because of her mental health issues. She can seek advice from any medical professional she is in contact with. And she can approach any of the organisations Lendable referred her to. But regrettably I don't think there's any further action I can take.

So, my provisional findings as set out above are now final and form part of this final decision.

My final decision

I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 11 January 2023.

Ray Lawley
Ombudsman