

## **The complaint**

Mr L complains about a loan granted to him by Progressive Money Limited (“PML”). He says PML were irresponsible to have lent to him at that time.

## **What happened**

PML agreed a loan for Mr L in October 2018. The loan was for £15,000 to be repaid in monthly instalments of £338 over ten years, and the total amount owed was £40,522 (figures rounded).

Mr L said that PML shouldn’t have agreed a loan for him because he had a poor credit history - he frequently took out short term and high street bank loans and had a history of significant credit card debt. Mr L explained that he borrowed to feed a significant gambling problem, where he was gambling thousands of pounds a month at times. Mr L also says that PML were aware that at the time of the application he had just received a cash advance of more than £40,000 from his mortgage lender. He says that PML set him up to fail by providing him with this loan and that he has since defaulted on it.

PML said that it discussed Mr L’s income and expenditure with him, checked his credit file and his last two months’ bank statements before agreeing to lend to him. It said that while it could see his history of borrowing, he didn’t have any outstanding debt apart from two credit card balances. It had asked Mr L about the re-mortgage and he’d told it that he used these funds to repay money owing to his parents. PML also said that there were three gambling transactions showing on Mr L’s statements which were not of concern and there was no evidence to indicate that he had a gambling habit. PML didn’t uphold Mr L’s complaint.

Mr L referred his complaint to us and one of our investigators looked into it. They found that, while PML should have looked into his circumstances further before lending to him, for example by looking at more of his bank statements, these wouldn’t have revealed anything of concern. They concluded that PML wasn’t irresponsible to lend to Mr L and didn’t recommend that his complaint be upheld.

Mr L didn’t agree with this recommendation and asked for his complaint to come to an ombudsman to review and resolve, and it came to me. I issued a provisional decision on 7 November 2022 explaining why I thought Mr L’s complaint should be upheld. PML didn’t agree with my conclusion. This is my final decision on the matter and will be legally binding on both parties if Mr L accepts it.

## **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 considered everything again, including what PML said in response to my provisional decision, I remain of the view that Mr L’s complaint should succeed. I appreciate that this will be very disappointing for PML and I am sorry that this isn’t the outcome it looked for. I’ll set

out here again my reasons for upholding Mr L's complaint and will address its response where appropriate.

As I'd said in my provisional decision, PML will be familiar with the regulations in place at the time so I won't set them out in detail but will summarise them and refer to them where appropriate. PML needed to check that Mr L could afford to meet his repayments sustainably or without difficulty before agreeing the loan. In other words, it needed to check that he could meet his repayments out of his usual means without having to borrow further and without experiencing financial difficulty or other adverse consequences. The checks needed to take into account both the nature of the credit (the amount offered or the loan term, for example) and Mr L's particular circumstances.

The overarching requirement was that PML needed to pay due regard to Mr L's interests and treat him fairly. CONC 2.2.2G(1) gave an example of contravening this as 'targeting customers with regulated credit agreements which are unsuitable for them by virtue of their indebtedness, poor credit history, age, health, disability or any other reason.'

With this in mind, my main consideration is did PML complete reasonable and proportionate checks when assessing Mr L's application to satisfy itself that he would be able to make his repayments sustainably without having to borrow further or experience adverse consequences? If not, what would reasonable and proportionate checks have shown and, ultimately, did PML make a fair and responsible lending decision?

PML carried out an income and expenditure assessment when Mr L applied for his loan. Mr L said in his application that his net monthly income was £3,980 and his monthly expenses came to £2,045. PML noted that Mr L had balances on two credit cards of approximately £3,000 altogether, and large credit limits available on others (in total almost £22,000). PML asked Mr L about these on a call and he said that he paid off his credit cards in full each month and probably wouldn't utilise the cards with zero balances.

PML provided us with a copy of the credit file report it relied on, and Mr L's bank statements. It also provided a recording of the call in which it discussed Mr L's finances. It seems to me that PML gathered sufficient information about Mr L's circumstances to be able to make a reasonable assessment of affordability. However, I don't think PML acted responsibly when it agreed a loan for Mr L on this occasion because it should have seen from the information it had that the loan was unsuitable for Mr L given his borrowing history and his personal circumstances.

Mr L's credit file from the time, which PML relied on, shows the level of his recent borrowing – over £37,000 cash advances in the previous 12 months and over £102,000 in the previous 36 months. It shows that some large credit card balances had been cleared within the last six months and that Mr L had re-mortgaged in August, just a few months before. Mr L told us that he gambled significant sums and that in 2018 his parents helped him clear his debts (in the months up to May 2018) and he re-mortgaged his home a few months later to repay them.

PML knew about Mr L's long-established borrowing history and it also knew the extent of his gambling and how these two were related. It had declined his loan applications in February and March of that year and told us that it had "rejected the 4 February 2018 application, as it was identified that Mr [L]'s bank statements at the time showed that he had gambled over £20,000 in the previous 2 months with the source of the funds coming from short term loans. The notes also showed we rejected the 20 March 2018 application due to the level of gambling, though there are no details on the level of gambling at that time."

It seems to me that Mr L's pattern of spending impacted adversely on him in that he

borrowed significant sums to spend on gambling. While the loan repayments might have been affordable for Mr L on a pounds and pence basis, there was a clear risk that he wouldn't manage to meet his repayments sustainably or without experiencing adverse consequences during the loan term. Altogether, I don't think PML treated Mr L fairly and with due regard to his interests when it provided him with this amount of credit so soon after he had reorganised his debts, knowing his established borrowing and spending patterns.

Mr L provided us with his bank statements from 2018. I can see from these that he'd spent half the funds on gambling the day the loan was disbursed and the rest was gone within a week. That same week Mr L received loans, including a short term loan, of over £35,000 from four different lenders. At the end of December Mr L repaid over £3,500 to various other lenders (excluding his mortgage) and so it continued.

The statement of account shows that Mr L met his repayments, mostly on time, for this loan. However, he didn't manage to do so without borrowing from elsewhere. It seems from the information I have that Mr L was in a cycle of debt due to the amount he was spending on gambling and while there were a few months where he moved his unsecured debts to his mortgage with help from his parents, his pattern of borrowing and spending continued. I think this was foreseeable and I've concluded that PML's loan adversely impacted on Mr L.

In response to my provisional decision PML said that it took an evidence-based stance on this case and took reasonable steps in determining whether the application was sustainable for Mr L. PML said it found little evidence of gambling during its assessment and could not have reasonably foreseen that this loan would cause Mr L to revert to past conduct. PML said it should not be held responsible for Mr L reverting to habits which were seemingly behind him.

As I'd explained in my provisional decision PML needed to take into account more than Mr L's ability to repay the credit - it had to consider whether he could meet his repayments without difficulty, for example without having to borrow to do so. It also needed to treat Mr L fairly and with due regard to his interests, for example by not entering into an unsuitable credit agreement with him. Mr L had a recent history of spending which caused him harm and PML was aware of this. Altogether, in the circumstances of this case, I've concluded that PML was irresponsible to lend to Mr L and it now needs to take steps to put things right for him.

### **Putting things right**

I understand that Mr L has repaid more than the capital he borrowed. In this case, I think it's fair that the capital repaid (up to £15,000) should remain with PML, but I don't think Mr L should pay any interest, fees or charges on this loan, which I've found to have been irresponsible given.

In summary PML should:

- Cap the amount Mr L needs to repay at £15,000; and
- Consider all payments, including fees, Mr L made as payments towards this capital amount; and
  - If Mr L has paid more than this then PML needs to refund these overpayments to him along with 8% simple interest per annum\* from the date of payment to the date of settlement of this complaint. In this case PML needs to remove any negative information about this loan from Mr L's credit file up to the point of settlement of the complaint; or

- If it transpires that Mr L has not yet repaid the capital, then PML needs to treat Mr L fairly and with forbearance and due consideration regarding his outstanding capital balance. This may mean coming to an affordable repayment plan with him. Once the loan capital has been repaid, then PML should remove any negative information about this loan from Mr L's credit file.

\*HMRC requires PML to take off tax from this interest. PML must give Mr L a certificate showing how much tax it's taken off if he asks for one.

### **My final decision**

For the reasons I've explained above, I am upholding Mr L's complaint about Progressive Money Limited and it now needs to take the steps outlined to put things right for him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 12 January 2023.

Michelle Boundy  
**Ombudsman**