

Complaint

Mr J has complained that Lifestyle Loans Limited (“Lifestyle Loans”) provided him with an unaffordable loan.

Background

Lifestyle Loans provided Mr J with a loan of £5,000.00 in August 2021. This loan had an APR of 49.9% and an 60-month term. This all meant the total amount repayable of £11,862.60, which included interest, fees and charges of £6,862.60 was due to be repaid in 60 monthly instalments of just under £200.

One of our adjudicators looked at this complaint and thought that Lifestyle Loans unfairly provided this loan to Mr J as proportionate checks would have shown it was unaffordable.

Lifestyle Loans disagreed with our adjudicator 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 Mr J’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 Mr J’s complaint. These two questions are:

1. Did Lifestyle Loans complete reasonable and proportionate checks to satisfy itself that Mr J would be able to repay his loan in a sustainable way?
 - o If so, did it make a fair lending decision?
 - o If not, would those checks have shown that Mr J would’ve been able to do so?
2. Did Lifestyle Loans act unfairly or unreasonably in some other way?

Did Lifestyle Loans complete reasonable and proportionate checks to satisfy itself that Mr J would be able to repay his loan in a sustainable way?

Lifestyle Loans provided this loan while it was authorised and regulated by the Financial Conduct Authority (“FCA”). The rules and regulations in place required Lifestyle Loans to carry out a reasonable and proportionate assessment of Mr J’s ability to make the repayments under this agreement. This assessment is sometimes referred to as an “affordability assessment” or “affordability check”.

The checks had to be “borrower” focused – so Lifestyle Loans had to think about whether repaying the loan would cause significant adverse consequences *for Mr J*. In practice this meant that Lifestyle Loans had to ensure that making the payments to the loan wouldn’t cause Mr J undue difficulty or adverse consequences.

In other words, it wasn’t enough for Lifestyle 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 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.

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 Lifestyle Loans’ checks reasonable and proportionate?

Lifestyle Loans says that it carried out an income and expenditure assessment with Mr J prior to providing him with this loan. It also carried out a credit check. Its checks showed that Mr J’s predicted income without transfers was just under £2,000.00. But with transfers this went up to just under £2,230.00.

Lifestyle Loans determined that Mr J had essential monthly expenditure of approaching £1,850.00 a month. In its view, when this amount was deducted from Mr J’s income with transfers, this left Mr J with enough to be able to make the payments to this loan.

I’ve carefully considered what Lifestyle Loans has said. But I think that it would have been prudent for Lifestyle Loans to have carried out further enquiries into the transfers it was

relying on for the loan to be affordable. This is because Mr J's salary credits weren't enough for him to make the repayments to this loan, once the essential monthly expenditure figure Lifestyle Loans calculated for Mr J was deducted.

I'm also concerned that the credit check Lifestyle Loans carried out showed Mr J had had previous difficulties repaying credit – he had at three defaults (albeit one was satisfied) – so it simply wasn't the case that Mr J was up-to-date on his monthly commitments. This together with its calculations, leads me to think that Lifestyle Loans needed to take steps to verify Mr J's actual monthly income and expenditure.

As I can't see that this Lifestyle Loans did take further steps to verify Mr J's expenditure, I don't think that the checks it carried out before providing Mr J with his loan were reasonable and proportionate.

Would reasonable and proportionate checks have indicated to Lifestyle Loans that Mr J would have been unable to repay this 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 Lifestyle Loans that Mr J would have been unable to sustainably repay this loan.

Lifestyle Loans was required to establish whether Mr J could make his loan repayments without experiencing significant adverse consequences – not just whether the loan payments were technically affordable on a strict pounds and pence calculation.

I've carefully considered the information provided. Having done so, it's clear that Mr J was struggling to manage his existing commitments. He was number of debt collectors and rarely had any funds left over at the end of the month. So I think that proportionate checks would have shown Lifestyle Loans that Mr J was likely to use this loan to repay other credit, or to at least cover the hole this left in his finances, which meant he was unlikely to be able to repay it without borrowing further or suffering significant adverse consequences.

Bearing all of this in mind, I'm satisfied that reasonable and proportionate checks would more likely than not have demonstrated that Mr J would not have been able to make the repayments to this loan without borrowing further and/or suffering undue difficulty. And, in these circumstances, I find that reasonable and proportionate checks would more likely than not have alerted Lifestyle Loans to the fact that Mr J was in no sort of position to make the payments on this loan without suffering significant adverse consequences.

Did Lifestyle Loans act unfairly or unreasonably towards Mr J in some other way?

I've carefully thought about everything provided. And having done so, I've not seen anything to suggest that Lifestyle Loans acted unfairly or unreasonably towards Mr J in some other way. So I don't think Lifestyle Loans acted unfairly or unreasonably towards Mr J in some other way.

Did Mr J lose out as a result of Lifestyle Loans unfairly providing him with this loan?

As Mr J has paid and is being expected to pay interest and charges on a loan that he shouldn't have been provided with, I'm satisfied that he has lost out as a result of what Lifestyle Loans did wrong.

So I think that Lifestyle Loans needs to put things right.

Fair compensation – what Lifestyle Loans needs to do to put things right for Mr J

Having thought about everything, Lifestyle Loans should put things right for Mr J by:

- removing all interest, fees and charges applied to the loan from the outset. The payments Mr J made, whether to Lifestyle Loans or any third-party debt purchaser, should be deducted from the new starting balance – the £5,000.00 originally lent. If Mr J has already repaid more than £5,000.00 then Lifestyle Loans should treat any extra as overpayments. And any overpayments should be refunded to Mr J;
- adding interest at 8% per year simple on any overpayments, if any, from the date they were made by Mr J to the date of settlement†
- if no outstanding balance remains after all adjustments have been made, all adverse information Lifestyle Loans recorded about this loan should be removed from Mr J's credit file.

† HM Revenue & Customs requires Lifestyle Loans to take off tax from this interest. Lifestyle Loans must give Mr J a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained, I'm upholding Mr J's complaint. Lifestyle Loans Limited needs to put things right in the way set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 24 April 2023.

Jeshen Narayanan
Ombudsman