

The complaint

Mr G complains that two finance agreements that he took out with Vodafone Limited ("Vodafone") were unaffordable and or that the decisions to lend to him were inappropriate.

What happened

Mr G took out two interest free finance agreements with Vodafone one in August 2021 and one in May 2022 to pay for electronic equipment. Mr G was a pre-existing customer with Vodafone before he took out these finance agreements.

Mr G tells us that when he borrowed from Vodafone his financial situation was not good. In particular, he says:

"I had approx. 9 active defaults showing on my credit file along with a large number of late or missed payments with short term loan providers. My credit score was extremely low, and I was unable to secure any finance".

Moreover, Mr G also tells us he was gambling to such an extent it was causing him financial difficulties as he had a gambling addiction and as a result engaged in problem gambling, but the finance from Vodafone was not used for gambling.

Ultimately Mr G did not keep up to date with his repayments on either of the finance agreements. As a result Vodafone terminated the agreements and asked the credit reference agencies to register defaults on his credit file in relation to these agreements. It then sold the debts to a third party.

Mr G indicates that he'd had money troubles since 2008 this had led to unrelated defaults being registered on his credit file by third party lenders. But due to the passage of time and given that defaults only stay on a credit file for six years, by 2023 he could have expected those unrelated defaults to have dropped off his credit file. Thereafter his credit rating would have improved. But instead because of the defaults that Vodafone asked to be registered, he is now looking at another six years before his credit rating will improve.

Mr G's stance is that for all the reasons set out above, in both August 2021 and May 2022, his financial circumstances were such that no reasonable lender would or should have lent to him. It follows therefore that Vodafone's decisions to lend to him were inappropriate. Therefore Mr G complained to Vodafone.

To put things right Mr G wants Vodafone to ask the credit reference agencies to remove the defaults from his credit file. He also wants it to buy back the debts from the third party and set up a repayment plan to help him repay the debt in a sustainable manner.

At first Vodafone did not agree it had done anything wrong. Its initial position was that, on each occasion, it carried out appropriate checks before lending to Mr G. Moreover Mr G's payment history did not suggest that either agreement was unaffordable. On this basis Vodafone declined to uphold Mr G's complaint.

Dissatisfied with Vodafone's response Mr G complained to our service.

One of our investigators looked at what had happened. Our investigator noted that Mr G had had more than two agreements with Vodafone. However, our investigator explained why this service could only look at two of the agreements that Mr G had with Vodafone, that is the two agreements mentioned above. It appeared Mr G accepted this.

Our investigator recommended that Mr G's complaint be upheld in part, because she considered that in the circumstances, if it'd taken the actions it should have done, no reasonable lender would have lent to Mr G in May 2022. When it came to redress our investigator noted the May 2022 agreement had no interest or charges. Moreover, Mr G still has the electronic equipment which he bought using the finance provided under this agreement. Therefore, in the circumstances, she thought it fair and reasonable that Vodafone:

- Remove any adverse information recorded on Mr G's credit file regarding the May 2022 agreement only.
- If there any arrears still outstanding, Vodafone should arrange an affordable repayment plan. And treat Mr G with forbearance and due consideration. If the debt has been sold to a third party, Vodafone should try to buy it back in order to set up a repayment plan. However, if this isn't possible, it should mediate with the third party to make sure this can be arranged for Mr G on the account.

However, our investigator did not uphold the part of Mr G's complaint about the August 2021 loan.

Vodafone accepted this recommendation and thereby shifted from its initial stance with regard to the May 2022 loan. Mr G did not accept this recommendation. I've summarised his objections below.

- Mr G repeated his previous stance about the August 2021 finance agreement.
- Mr G indicated he wanted to provide his credit report for August 2021 to demonstrate his financial circumstances at the time he took out that finance. We gave Mr G until 20 March 2023 to provide this information but we also reminded him we had asked for this information from the start of our investigation into his complaint.
- Mr G pointed out that the balances of his pre-existing debts may have been relatively small, but those balances were barely reducing over time.

As far as I am aware we have received no further information from Mr G.

I was asked to take a fresh look at Mr G's complaint.

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.

First, I'm very aware that I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here.

Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. Rather, I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

For the avoidance of doubt I'll briefly mention, we have already explained why this service only has the power to look at the agreements of August 2021 and May 2022. Therefore I am only looking at those two agreements in this decision.

Moreover, Vodafone has accepted that the 2022 lending was unaffordable and has accepted the redress our investigator proposed which is the redress Mr G asked for. I think the redress that the parties has agreed to is fair and reasonable. Therefore the only remaining issue for me to think about is whether the 2021 finance agreement was unaffordable or whether the decision to lend was irresponsible.

I appreciate that Mr G wanted to provide further information, but I think he has had a fair opportunity to do this, and he has not. Therefore, I think it is fair and reasonable to proceed without this information.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulator's rules, guidance and standards and codes of practice and (where appropriate) what I consider to have been good industry practice at the time.

When Vodafone lent to Mr G it was a regulated business providing regulated finance. That meant it had certain obligations to fulfil before it lent to him. Under the regulations at the time, amongst other things, Vodafone had to follow the relevant guidance in relation to vulnerable consumers.

Mr G tells us he was a vulnerable consumer by reason of his problem gambling when he took out the lending. He also tells us he was diagnosed with a gambling disorder a considerable time after he took out the 2021 loan, but he only told Vodafone about this in December 2022.

A vulnerable consumer is someone who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care.

Firms such as Vodafone are expected to provide their customers like Mr G with a level of care that is appropriate given the characteristics of the customers themselves. The level of care that is appropriate for vulnerable consumers may be different from that for others and firms should take particular care to ensure they are treated fairly. That might mean that Vodafone would have been obliged to take additional steps in its dealings with Mr G to make sure he was treated fairly.

That said, given the very particular circumstances of this complaint it does not appear that Vodafone was or ought reasonably to have been aware of Mr G's vulnerability at the time it lent to him in August 2021. I say this because Vodafone only became of Mr G's problem gambling in December 2022 and nothing in his financial history ought reasonably to alerted Vodafone that he was engaged in problem gambling.

It follows that it is not fair or reasonable to hold Vodafone to account in this complaint, because it did not treat Mr G as a vulnerable consumer at the time he took out the loan in August 2021.

As a regulated lender Vodafone was also obliged to make sure that its lending was affordable and responsible. In particular, it was required to carry out checks that were proportionate in the circumstances, which might include considerations about the amount borrowed and Mr G's borrowing history. That said, exactly what a lender should consider was for each lender to decide,

Further, Vodafone had to be able to demonstrate that it did enough to ensure that Mr G could repay the borrowing in a sustainable manner without it adversely impacting on his financial situation. I think there are some overarching questions I need to consider in order to decide what's fair and reasonable in the circumstances of this complaint. These questions are:

- Did Vodafone complete reasonable and proportionate checks to satisfy itself that Mr G would be able to repay the finance in a sustainable way? If so, did it make a fair lending decision?
- If not, would those checks have shown that Mr G would've been able to repay the

finance in a sustainable way?

- Did Vodafone act irresponsibly or unfairly or unreasonably in some other way?

We've asked Vodafone about the checks it carried out. It told us it carried out a credit score check. It told us what credit score Mr G achieved and what its threshold was, and that Mr G's score was well above this threshold. It describes Mr G's score as "*good*" by the reckoning it used which appears to be a reasonable yardstick.

That said I know Mr G tells us Vodafone has given us an incorrect credit score and therefore he wanted to provide an alternative credit score, but he has not. I'm satisfied though that Mr G has been given a fair opportunity to provide any information he wanted us to consider. Ideally I would have liked to have seen the actual credit check that led to the credit score. But that information does not appear to be available, so I have had to go with what I've got. In the circumstances, Despite Mr G's misgivings I don't think it is likely on balance that Vodafone has given us a credit score that Mr G did not achieve at the time.

Mr G indicates that when he applied for the 2021 finance he had 9 defaults, and a large number of late or missed payments. As I've already mentioned I've not seen a copy of Mr G's credit report for August 2021. Although Mr G has sent us some information about historic debts for small amounts. Some of those accounts did not default or appear to be in bad order before this lending was taken out. Other accounts appeared to have defaulted years before this lending was approved. On balance therefore I don't agree, on this basis alone, that I can say Vodafone's checks did not go far enough.

Vodafone tells us that it also asked Mr G for information about his income and expenditure. Mr G does not dispute that this happened. Neither has he said the information he provided for this was inaccurate. Vodafone tells us it verified this information independently. I've no reason to doubt that it did this. This check showed that Mr G had sufficient disposable income by quite a large margin to easily meet his repayments under this finance agreement.

I also think it is significant that the amount to be repaid was relatively small, and the monthly repayments were relatively small and that on the face of it Mr G's financial position appeared to be stable. Given this I'd not have expected the checks to have gone as far as what might have been required if the amount to be repaid was larger, or the repayments significantly higher either in absolute terms or in relation to Mr G's disposable income. Or if there were indications that Mr G's financial situation was not stable at the time.

For all of these individual reasons, on balance I do not agree that Vodafone failed to carry out reasonable and proportionate checks or that its decision to lend was unfair given the checks it did.

I've also looked at whether Vodafone acted irresponsibly or unfairly or unreasonably in some other way.

I've already dealt with Mr G's complaint point about whether Vodafone acted irresponsibly in lending to him on the basis that it did not deal with him appropriately as a vulnerable consumer.

I've also thought about whether Vodafone acted appropriately based on what it knew about Mr G not just due to the checks but also due to its pre-existing relationship with Mr G.

Vodafone knew about Mr G's pre-existing debts with it and his payment history in relation to those debts was satisfactory. Vodafone was also aware of the reasons why Mr G had borrowed from it previously, which was either to buy services or electronic devices which seems reasonable in the circumstances. I also think it is significant that the purpose of the finance was not to get further finance which could be used to pay off pre-existing debts.

Mr G points out that all of his pre-existing debts may have been small, but the balances were reducing very slowly. That may be so, but as I have already mentioned his income and expenditure indicated not only did he have sufficient financial headroom to make his

repayments to Vodafone, but he also had the resources to service all his pre-existing debts too.

Moreover, Mr G's payment history on the August 2021 finance does not suggest he was struggling to meet his repayments from the very beginning.

Mr G tells us he was not able to get credit from other providers and I think he is therefore saying if those other lenders would not lend to him it shows that Vodafone acted inappropriately by lending to him. However, I don't know what type of finance Mr G applied for with other lenders and under what terms he was trying to borrow. Neither have I seen information that shows that he was declined for credit by other lenders, at the same time as applying to Vodafone in August 2021.

For all of these individual reasons, in the circumstances, I don't find that Vodafone's decision to lend to Mr G in 2011 was irresponsible, unfair or unreasonable. It follows I don't agree I have any fair or reasonable basis to tell Vodafone it has to take any further action in relation to the August 2021 finance agreement because I do not uphold this part of Mr G's complaint.

My final decision

My final decision is that Vodafone Limited must as it has already agreed to do.

- Ask the credit reference agencies to remove any adverse information it asked them to record on Mr G's credit file regarding the May 2022 agreement only.
- If there any arrears still outstanding, Vodafone should arrange an affordable repayment plan. And treat Mr G with forbearance and due consideration. If the debt has been sold to a third party, as appears to be the case here, Vodafone should try to buy it back in order to set up a repayment plan. However, if this isn't possible, it should mediate with the third party to make sure this can be arranged for Mr G on the account.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 7 June 2023.

Joyce Gordon
Ombudsman