DRN-4053960

The complaint

Mr M complains that My Finance Club Limited (MFC) lent to him without doing the right checks.

What happened

Mr M took four loans from MFC and using the information available to me from its records here is a summary of those:

Loan	Approved	Amount	Repaid * repaid early
1	29 September 2021	£400	15 October 2021*
2	17 October 2021	£400	15 November 2021*
3	23 November 2021	£250	28 January 2022*
4	31 January 2022	£290	25 November 2022

Mr M complained to MFC and received its final response letter in which it gave detailed explanations as to what it had done before lending and it did not uphold his complaint.

Mr M referred it to the Financial Ombudsman Service and our adjudicator considered it all and thought that MFC had done all that would have been expected of it.

Mr M responded to explain that MFC ought to have done more to find out that hew was a heavy gambler at the time he took these loans and they should never have been approved for him.

Our adjudicator's second view remained the same and so Mr M requested that an ombudsman review the complaint.

The unresolved complaint was passed to me to decide.

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.

We've set out our general approach to complaints about this type of lending - including all the relevant rules, guidance, and good industry practice - on our website.

MFC had to assess the lending to check if Mr M could afford to pay back the amount he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. MFC's checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr M's income and expenditure.

I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest MFC should have done more to establish that any lending was sustainable for Mr M. These factors include:

- Mr M having a low 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 amounts to be repaid being especially high (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- Mr M having many loans and/or having these loans over a long period of time (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);
- Mr M coming back for loans shortly after previous borrowing had been repaid (also suggestive of the borrowing becoming unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable for Mr M.

MFC was required to establish whether Mr M could *sustainably* repay the loan – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr M was able to repay his loan sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that payments are sustainable if they are made without undue difficulties and, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mr M's complaint. I've decided not to uphold his complaint and I explain here.

MFC carried out proportionate checks as it verified Mr M's income and checked his credit file which did not show any elements to prompt it to be unduly concerned. Copies of the credit search results have been sent to me and I have reviewed them. There was nothing there to indicate that Mr M was in financial difficulties or had been falling behind in his payments.

MFC has explained it verified his income directly with his bank for loans 1 and 2 and for loans 3 and 4 it had asked for payslips which Mr M had provided and I have seen copies. For loans 1 and 2 Mr M had declared around £2,000 each month and the payslips for loans 3 and 4 showed Mr M received a salary after tax of £1,977 in December 2021 and £2,075 for January 2022.

MFC was aware from Mr M's applications that he lived at home with his parents. So, it was reasonable for MFC to proceed on the basis that Mr M was less exposed than other applicants to the fluctuations and inherent risks of having to be responsible for priority bills such as rent and utilities. I consider this to have had a bearing on the creditworthiness assessment and I consider that reasonable for MFC to have done that.

MFC has explained in submissions to us that after loan 4 had been approved for Mr M he wrote to MFC to tell it he'd lost his job. As MFC had seen his payslip for the January 2022 period then I do not think that MFC was aware of any likely job loss at that time. It had asked Mr M each application to verify his position and his employment situation considering that the Covid 19 pandemic was relevant for those months.

Mr M has explained to MFC and to us that he had a gambling issue and his summary that he spent several thousand pounds before loan 1 was approved by MFC certainly indicates a lot was spent. But it would not be expected that MFC would know of this, or ought to have known of this.

The checks MFC carried out for a new customer applying for the early loans were proportionate and therefore within the regulations which applied. After that the sums applied for decreased and MFC has explained to us that this was deliberate to ensure that customers did not increase their liability and indebtedness by taking larger and larger loans.

It would have been disproportionate for MFC to have asked for and reviewed Mr M's bank statements at any stage of the four loan applications, or for me to expect it to have done that. Without seeing the bank transactions then I do not see how MFC would have known of the gambling costs unless Mr M had told it. And the evidence points to the fact he did not inform MFC of that.

In all the circumstances I have decided that I do not uphold Mr M's complaint.

Other cases

I am aware that Mr M has referred other complaints relating to other lenders to the Financial Ombudsman Service. Each set of circumstances surrounding the loan applications, the submissions and evidence each party provides differs. I appreciate that for Mr M the submission is the same – that he had a gambling problem and so the lenders ought to have known. But that's not always the case. Each complaint is reviewed on its own circumstances. I have added this short paragraph to explain a little more as he has other unresolved complaints with us. I hope it assists.

My final decision

My final decision is that I do not uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 20 September 2023.

Rachael Williams
Ombudsman