DRN-4109359

The complaint

Mr D complains that FUND OURSELVES LIMITED irresponsibly provided him with loans he couldn't afford to repay, and that it continued to charge him interest while he was in a "*breathing space*".

What happened

Mr D took out two loans with Fund Ourselves as follows

	Date	Amount	Monthly repayment	Duration	When repaid	Settlement figure
Loan 1	27/6/2022	£500	£246	4 months	29/7/2022	£628
Loan 2	4/8/2022	£1,100	£440	5 months	21/10/2022	£1,777.60

As can be seen, Mr D paid off loan 1 within 2 days of setting it up. With regard to loan 2 Mr D paid no instalments on it. He contacted a debt advice charity and advised Fund Ourselves of this on 10 August 2022. He said he had entered a "breathing space" arrangement. As a result Fund Ourselves agreed to place the account on hold for 30 days. Mr D made a payment of £440 on 14 October 2022. He said he had wanted to pay a higher amount but Fund Ourselves' website would only allow him to pay 10 payments of £14.40. He paid the balance off on 21 October 2022 having received a settlement figure from Fund Ourselves.

Mr D complained that Fund Ourselves shouldn't have provided him with the loans. He said he was in a debt spiral and that Fund Ourselves completed minimal checks. He also said his credit score was poor and he was unemployed. He further complained that Fund Ourselves refused to freeze the interest on the account even though he was in the breathing space arrangement.

Fund Ourselves said it carried out proportionate checks including income verification and was satisfied Mr D was able to repay the loan. It didn't receive any notification from the debt advice charity about a breathing space arrangement but did receive notification in October 2022 following which it agreed a payment plan and received one payment from the charity following which Mr D repaid the loan.

On referral to the Financial Ombudsman Service our Adjudicator said that taking all the information provided into consideration she didn't think that Fund Ourselves had done anything wrong.

Mr D didn't agree and said that if Fund Ourselves had asked for a bank statement it would have seen his gambling activity and would have refused the loans.

The matter has been referred to me for further consideration.

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 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 Fund Ourselves complete reasonable and proportionate checks to satisfy itself that Mr D would be able to repay the loans in a sustainable way?

- If not, would those checks have shown that Mr D would have been able to do so?

The rules and regulations in place required Fund Ourselves to carry out a reasonable and proportionate assessment of Mr D's ability to make the repayments under the agreements. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower-focused" – so Fund Ourselves had to think about whether repaying the loans would be sustainable. In practice this meant that Fund Ourselves had to ensure that making the repayments on the loans wouldn't cause Mr D undue difficulty or significant adverse consequences. That means he 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 he had a contractual or statutory obligation to make and without the repayments having a significant adverse impact on his financial situation.

In other words, it wasn't enough for Fund Ourselves to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Mr D. 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).

lending decisions

In respect of both loans Mr D provided details of his income and outgoings. He said he was in full-time employment. He said his income was £4,200 a month and his monthly expenditure was £2,250 a month which then left him with a disposable income of £1,950 a month.

Fund Ourselves carried out an income verification check through a credit reference charity. This gave Mr D a high income confidence factor i.e. that Mr D had quoted his income accurately. Bearing in mind the amounts, and the terms, of each loan, that he paid off loan 1 early and his application details were independently confirmed I think that Fund Ourselves carried out reasonable and proportionate checks. And that it made fair lending decisions in respect of both loans.

I note that Mr D says if Fund Ourselves had looked at his bank statement it would have seen his gambling activity. But I don't think that it would have been proportionate to expect Fund Ourselves to look at bank statements, so it wouldn't have seen any such activity.

Fund Ourselves' handling of loan 2

Mr D complains that when he notified Fund Ourselves that the was in the "breathing space" arrangement it refused to freeze the interest. This meant that he was anxious that a very high rate of interest was accruing.

Fund Ourselves said it wasn't advised of any breathing space arrangement, but nevertheless agreed to put the account on hold when Mr D notified it that he was in contact with the debt advice charity. Mr D paid off the loan and it notified him of the early settlement figure which included a rebate.

The Debt Respite Scheme (Breathing Space) is a government scheme operated by debt advice providers or local authorities. Once it is in operation the loan provider is required to take certain actions including freezing the interest on the account for 60 days. It requires formal setting up. So I doubt that the breathing space applied from 10 August which is when Mr D first notified Fund Ourselves of his contact with the debt advice charity. And I note that Fund Ourselves said it never received any formal notice that breathing space applied.

If a consumer notifies the business that they are in financial difficulties it has an obligation under the rules to treat the consumer fairly and with forbearance. Here Fund Ourselves agreed to put the loan on hold while Mr D applied to the debt advice charity. This meant that it didn't ask him to make payments to allow hint io resolve then through the charity. But I do note that this was within six days of him taking out the loan which does suggest that Mr D was aware of his circurnstances at the time of taking out the loan. When it received communications from the debt advice charity it agreed a repayment scheme. I consider that Fund Ourselves acted reasonably here.

I note Mr D says he couldn't make an overpayment when he tried to. I see he did make a substantial payment but this was after 5pm, so he couldn't get through to an adviser. However, he could have made a further payment the following day, and he made the full settlement payment the following week. So I don't think it necessary to require Fund Ourselves to take any other action in this respect

The Consumer Credit (Early Settlement) Regulations set out how lenders should calculate the settlement figure so that it's fair for borrowers. Here in the case of both loans I think Fund Ourselves calculated the settlement figures in line with the regulations which meant Mr D received rebates of interest. As it complied with the regulations, I think Fund Ourselves acted fairly in respect of the early settlement.

My final decision

I don’t uphold the complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr D to accept or reject my decision before 28 August 2023.

Ray Lawley
Ombudsman