

The complaint

Mr C complains that FUND OURSELVES LIMITED ("FOL") lent to him when he could not afford it. He says that if it had carried out proper checks it would have realised that he gambled and so FOL should not have lent to him.

What happened

Mr C was approved for one loan for £250 in May 2022. It was due to be repaid in four instalments of £124 each. The total to repay was £496. Mr C has got into arrears with it.

After Mr C had complained in June 2022, FOL responded with its final response letter dated 21 July 2022. It gave reasons why it considered it had carried out the correct checks. It did not uphold his complaint.

Mr C referred his complaint to the Financial Ombudsman Service on 21 January 2023, just inside the six month deadline. One of our adjudicators reviewed it all and did not think that it was right to uphold the complaint.

Mr C disagreed with the outcome. He has sent us several screenshots of a declined application for a loan with a different lender in May 2022, a loan approval but its undated and I cannot see which lender that was with, an upheld complaint from July 2022 and an account on which he owed £473 in June 2021. Mr C has sent us a screenshot of a letter from a utility company dated 1 April 2022 explaining he owed it £841 and that within 28 days it was going to register a default on his credit file. So that was likely going to be by 1 May 2022.

Mr C explained that 80% of his earnings he spent on gambling and he has sent us a copy of his bank account statement for the period up to the loan approval date in May 2022.

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. FOL had to assess the lending to check if Mr C 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. FOL'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 C'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 FOL should have done more to establish that any lending was sustainable for Mr C. These factors include:

- Mr C 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 C 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 C 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 C. But a pattern would not have developed here as Mr C took one loan only.

FOL was required to establish whether Mr C 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 C 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 C's complaint. I've decided not to uphold his complaint and I explain here.

FOL carried out proportionate checks as it verified Mr C's income and checked his credit file which did not show any elements to prompt it to be unduly concerned. There was nothing there to indicate that Mr C was in financial difficulties or had been falling behind in his payments. Mr C only had an overall debt balance of £1,255 which is low.

The adverse entries (defaults in May 2019 and August 2018) related to accounts which were well before he applied for this one and a lender such as FOL would have been used to lending to customers with some adverse credit history.

The utility company default Mr C has told us about may have been applied, but if it had it would have been early May 2022 and I do not think that it would have registered in time for a credit search FOL carried out on 21 May 2022. Often new entries take 6 to 8 weeks to register. So, I doubt that FOL would have been aware of this.

The income and expenditure assessment FOL carried out indicated that Mr C had enough disposable income to repay the £124 a month. It said in its final response letter addressed to Mr C:

'For your loan application, you informed us that your net monthly income was £1820 and your financial commitments (such as outstanding debt, travel, rent etc.) amounted to £1355. Therefore, your income minus your financial commitments would have left you with enough disposable income to cover your loan repayments.'

And I have seen the figures Mr C inputted for his application and I agree with that assessment by FOL.

Mr C has explained to FOL and to us that he had a gambling issue and his summary that he spent around 80% of his salary each month certainly indicates a lot was spent. But it would not be expected that FOL would know of this, or ought to have known of this.

The checks FOL carried out for a new customer applying for a £250 loan were proportionate and therefore within the regulations which applied. And it would have been disproportionate for FOL to have asked for and reviewed Mr C's bank statements or for me to expect it to have done that. Without seeing the bank transactions then I do not see how FOL would have known of the gambling costs unless Mr C had told it. And there's no evidence to suggest he had told FOL.

In all the circumstances I have decided that I do not uphold Mr C's complaint. I realise Mr C will be disappointed.

My final decision

My final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 29 September 2023.

Rachael Williams
Ombudsman