DRN-4233807

The complaint

Mr S complains that Logbook Money Limited provided a logbook loan to him which he was unable to afford to repay.

What happened

Mr S made an application for a loan to Logbook Money in July 2021. As it was a logbook loan, he provided his car as security for the loan. The details were as follows:

Start date	Capital amount	Total repayable	Weekly repayment	Duration
8/7/2021	£1,200	£3,576.30	£45.85	78 weeks

Mr S advised Logbook Money that he was about to start a new job, and he provided evidence of that. Based on the evidence of his income from that job, Logbook Money assessed that he had sufficient disposable income to afford the repayments. He wanted the loan to tide him over before receiving his first salary payment, as he wouldn't be paid for six weeks.

Mr S made three weekly payments up until the end of July 2021. Unfortunately he didn't pass the probation period for his new job and his employment was terminated at the end of August 2021. He failed to make any further payments, and his car was repossessed, and sold at auction in November 2021 for £1,750, leaving a balance then outstanding of £1,072. Mr S made a complaint to Logbook Money that he couldn't afford the loan and that Logbook Money shouldn't have taken into account his prospective earnings in his new job before he'd passed the probation period. He further said the car was sold at an undervalue.

Logbook Money carried out a credit check and also took details of Mr S's income and expenditure over the telephone. It further considered three months of bank statements and took into account a letter of offer of employment and setting out his prospective income. It assessed that Mr S was able to afford the loan. It denied that the car was sold for an undervalue and has shown us details of the bids on the car and an independent valuation.

On referral to the Financial Ombudsman, our Adjudicator thought that Logbook Money had acted reasonably and that it was fair to take Mr S's prospective income into account.

Mr S didn't agree, pointing out that some of his income from his bank statements was a rental payment for a music studio, and he received half that rent from another person. He believes that the money received was counted towards his disposable income but the money paid out wasn't counted. He also said he had child maintenance obligations and had been told by Social Services that he should be paying 15-20% of his income for this. He also said that he didn't earn what he expected to from his job and that Logbook Money shouldn't have lent him the money while he was still in a probation period.

Our Adjudicator pointed out that Logbook Money's assessment of his income and expenditure was based on future income and the information he had given it about his income and expenditure in the sales call.

I issued a provisional decision. Whilst I thought the complaint shouldn't be upheld, Mr S had claimed that the car had been sold at an undervalue which I considered needed to be addressed by obtaining details of the sale from Logbook Money. Having done that, I was satisfied the car hadn't been sold at an undervalue.

Neither party responded to my provisional decision.

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.

My provisional findings are set out below in italics:

"*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 Logbook Money complete reasonable and proportionate checks to satisfy itself that Mr S would be able to repay the loan in a sustainable way?

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

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

The checks had to be "borrower-focused" – so Logbook Money had to think about whether repaying the loan would be sustainable. In practice this meant that Logbook Money had to ensure that making the repayments on the loan wouldn't cause Mr S 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 Logbook Money to simply think about the likelihood of it getting its money back - it had to consider the impact of the loan repayments on Mr S. 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).*

Having listened to the sales call, I think it is clear that Mr S wanted the loan to tide him over until he got paid in his new job. He explained that he was in a job but that he wouldn't be paid in the new job until the end of August 2021, for some six weeks. So far as I can see, he wasn't in full time employment at the time. So his contention that Logbook Money should have waited until he'd passed the probation period would have defeated the reason why he wanted the loan.

Logbook Money obtained three months of bank statements from Mr S, for April to June 2021. Based on those statements alone I don't think Logbook Money should have approved the loan. They only show an income from benefits and a couple of agency jobs, and based on his expenditure this wouldn't have been enough. However Logbook Money is entitled to take future increases in income into account:

CONC 5.2A Of The Consumer Credit Rules, set out in the handbook of the Financial Conduct Authority (which applies to consumer credit agreements) says:
"…
(2)
The firm must take reasonable steps to determine the amount, or make a reasonable estimate, of the customer's current income.
….
(5)
The firm may only take into account an expected future increase in the customer's income where the firm reasonably believes on the basis of appropriate evidence that the increase is likely to happen during the term of the agreement or, in the case of an open-end agreement, during the likely duration of the credit."

So, based on the offer of employment produced by Mr S, Logbook Money had to decide whether the increase in income was likely to happen. Here Mr S had a firm offer of employment with a contract. The offer did include a probation period, but most offers of employment would include that. It's unfortunate that Mr S didn't pass that probation period, but I don't think it was unreasonable for Logbook Money to rely on it in assessing Mr S's income.

Mr S gave details of his monthly expenditure over the phone in the sales call. He didn't mention the studio rental nor his liability for child maintenance. As I've said Logbook Money obtained three months' bank statements from Mr S. These don't show any maintenance payments but they do show figures for studio rental. But it's not immediately obvious that this was a liability for Mr S, as the figure for that rental is preceded in the statements each time by a corresponding credit, which appears to cancel out the liability. When working out his disposable income the incoming payments towards this rent were not counted as income.

From the credit check it was shown that Mr S had two County Court Judgments registered against him, one in 2017 and another in 2019. I believe these were mostly discharged. He had a credit payment of £120 a month but no other loans or credit. So, whilst this would have given Mr S a poor credit score, I don't think it was a bar to him getting the loan from Logbook Money. Based on the figures given by Mr S, and the statements, it was assessed that he would be receiving a net income of around £1,450 to £1,500 a month, which would have given him a disposable income of £497- £547 a month. As a monthly figure, the loan payment would have been £198.68. I think, if Mr S had continued in his new job, this would *have been affordable, based on the information he gave. I appreciate that he was paid less than the payment figures set out in his letter of offer, but in my view Logbook Money lent the money in good faith, based on its reasonable belief as to his likely income. So I think that Logbook Money made a fair lending decision.*

On the question of the repossession and sale of the car, Mr S has shown us an estimated retail value of £4,195, although it would have been unlikely to reach that in an auction. Logbook Money rejected several lower offers. An independent valuer said that after taking into consideration the condition, age, and history of the vehicle, they believed £1,750 was a fair price. The average bid was £1,383, after several bids at auction, so the price obtained was fair. I think Logbook Money acted reasonably in that respect."

As neither party has commented on my provisional findings, I remain persuaded by them. Those findings are now final and form part of this final decision.

My final decision

I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 4 August 2023.

Ray Lawley
Ombudsman