

The complaint

Mr W complains that My Finance Club Limited (“MFC”) gave him loans without carrying out the correct affordability checks. Mr W also says he accidentally repaid the balance in full on the second loan that left him struggling to pay his priority bills.

What happened

A summary of Mr W’s borrowing can be found below.

loan number	loan amount	agreement date	repayment date	contracted term (days)
1	£400.00	17/02/2023	24/02/2023	30
2	£400.00	24/02/2023	24/05/2023	38

After Mr W made a complaint about the loans, MFC responded and explained why it wasn’t going to uphold either part of his complaint. Unhappy with the response, Mr W referred the complaint to the Financial Ombudsman Service.

The complaint was then reviewed by an investigator, and he didn’t uphold the complaint because the checks that MFC carried out showed it that Mr W should be able to afford his repayments. He also thought that MFC didn’t need to refund the payment Mr W made in May 2023 because it was money that was owed to MFC and Mr W had manually made the repayment.

Mr W didn’t agree with the outcome saying that before he took the loans, he had a number of missed payments and defaults on his credit file. Mr W also said he unintentionally made the payment and MFC didn’t show any “*compassion*”.

As no agreement could be reached the case has been passed to me for a 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.

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 W could afford to pay back the amounts he’d borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. MFC’s checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr W’s income and expenditure.

With this in mind, 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 W. These factors include:

- Mr W 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 W having a large number of 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 W 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 W. The investigator didn't consider this applied in Mr W's case and I would agree, given there were only two loans of the same value.

MFC was required to establish whether Mr W could sustainably repay the loans – 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 W was able to repay his loans sustainably. But it doesn't automatically follow that this is the case.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mr W's complaint.

Lending decision

Before these two loans were approved, Mr W declared he worked full time and he earned £2,405 per month. MFC also says Mr W's income was electronically verified through a third-party report – which suggested the income he had declared was likely to be accurate. In addition, MFC also took copies of Mr W's wage slip which confirmed his income. This was a reasonable level of check for MFC to have conducted for the first two loans.

In terms of monthly expenditure, Mr W provided details about his expenditure across several different headings such as, utilities, 'other', food and other credit commitments– to name a few. MFC says Mr W's outgoings came to £1,343 for loan one and £1,333 per month for loan two. Therefore, based on the information it had to hand these loans looked affordable as Mr W had sufficient disposable income.

Before these loans were advanced, MFC also carried out a credit search and it provided the results it received from the credit reference agency. It is worth saying here that although MFC carried out a credit search there wasn't a regulatory requirement to do one, let alone one to a specific standard. But what MFC couldn't do is carry out a credit search and then not react to the to the information it received – if necessary.

The two credit reports MFC received were identical, which isn't surprising given they were conducted fairly close together. And I am satisfied that the credit check results wouldn't have been a concern for MFC for either loan.

For both loans it knew that Mr W had three current accounts – and these were up to date with no adverse payment markers. There was also one credit card, that was well within its limit and again there had been no adverse payment markets. Finally, there was an unsecured loan that had been opened in October 2022. But again, this appeared to have been paid in line with the agreement as no adverse information was being reported by the creditor.

Mr W says he had a number of defaults and missed payments on his credit file, but that information wasn't contained within the results MFC received and so it didn't know about them. And the other evidence MFC had didn't suggest that there were defaults, missed payments or that Mr W was struggling to repay his existing creditors. MFC could only make its decision based on the information it was told and what it was provided with and that is what it has done here.

I can see that as part of his submission, Mr W has provided a copy of his bank statements from around the time these two loans were advanced. I'm sorry to hear about what Mr W has told us about his gambling, and I can see that from his bank statements he was moving significant amounts to such sites. But, that information wasn't disclosed to MFC as part of the application and the information MFC did receive both from Mr W and the credit reference agency didn't suggest that Mr W was having or likely having financial difficulties. This means MFC couldn't take this into account when conducting its affordability assessment.

Overall, given these were the only loans in and they were for the same amount of capital, it was reasonable for MFC to have relied on the information it was given. The checks MFC carried out were proportionate and showed Mr W should be able to afford the repayments. There also wasn't anything else to suggest that the loan would either be unaffordable for him or unsustainable.

So, for these reasons, I do not uphold Mr W's complaint about MFC's decision to provide these loans.

Repayment of the second loan

On 3 April 2023, when MFC attempted to take the payment for the loan this was declined and as such the loan went into arrears. Shortly after this, Mr W contacted MFC to explain that he didn't realise that was the payment date because he thought the loan was repayable over three months.

Mr W asked to defer the payment and after a number of emails between the parties on 9 April 2023, it was agreed that the loan would be repaid at the end of April 2023. This was a fair and reasonable course of action for MFC to have taken.

However, at the end of April 2023, when the payment was due, Mr W informed MFC that he wouldn't be able to pay it because he hadn't received his work bonus. Instead, he asked to repay the whole loan on 26 May 2023. MFC agreed to this, which I again think was reasonable.

On 24 May 2023, Mr W logged into his MFC online account and manually inputted his card details before making the full payment two days before he said he would.

MFC has explained the process that Mr W needed to go through in order to make the payment – which included logging into the account, entering card details and then confirming with the card issuer through a secure verification process. The transaction was completed, and so Mr W must have gone through the process MFC explained above.

However, the following day – 25 May 2023 Mr W contacted MFC saying he had logged on to the website, but only to see how much he owed and how much he would have to pay to clear the balance. Mr W says that he accidentally repaid the balance in full and he wanted a refund of the payment and to set up a payment plan. MFC responded to Mr W saying that a refund wasn't possible. There were then further emails between the parties which explained why Mr W wanted a refund for the payment.

I've thought about everything and given the process that would've been needed to have been completed, I think it is difficult to conclude that payment was an accident. Mr W has suggested that perhaps his phone had prepopulated the fields which enabled the payment to go through. While of course this is possible, I also have to weigh this up against the fact that Mr W owed MFC money and had agreed to pay the balance in full around the time that he made the payment.

I also appreciate the extremely difficult position Mr W then found himself in, but I can't say that MFC made an error when it processed a payment that Mr W had in effect asked it to do for money that he owed.

I can see from another complaint Mr W has with the Financial Ombudsman as well as the bank statement that he also repaid another loan in error around the same time as he paid MFC. However, I don't think it likely a consumer would repay two separate loans issued by different lenders by mistake. Instead, it seems more likely that the consumer knowingly repaid the loan in question, but then regretting doing so - perhaps because it then didn't leave him with much money.

Having looked at everything, while I understand why Mr W wanted further help and support from MFC, I can't say in this case, that it did anything wrong when it didn't refund the payment he had made. It therefore follows I also do not uphold this part of his complaint.

My final decision

For the reasons set out above, I'm not upholding Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 23 February 2024.

Robert Walker
Ombudsman