

## **The complaint**

Miss M complains that Link Financial Outsourcing Limited trading as Asset Link Capital (No. 9) ('Asset Link') irresponsibly lent to her.

## **What happened**

Asset Link took over legal responsibility for the loan from another business, Asset Link Corporation Limited. So in this decision I will refer to the business only as Asset Link.

In August 2020 Asset Link approved Miss M for a loan by way of a fixed sum loan agreement for £10,000. The loan was to help fund tuition fees and living costs for a two year period of study to gain a professional qualification. Under the terms of the loan the monthly payments were set at £5 for 25 months before increasing to £261 per month which would be payable for 120 months.

Miss M made no further increased payments after February 2023 and then cancelled the direct debit.

Miss M says the loan was irresponsibly lent. She says Asset Link didn't complete reasonable and proportionate checks before approving the loan. She says she couldn't afford the initial or the higher loan repayments.

Our investigator recommended that Miss M's complaint be upheld. He thought that Asset Link had likely completed proportionate checks, including using predicted future income data, before lending to Miss M, but that the checks showed it was unlikely that Miss M would be able to sustainably make the increased monthly repayments once the course was over.

As Asset Link disagrees with our investigator's finding, the complaint 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 approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website. I've used this approach to help me decide this complaint.

In this decision I will focus on the question of whether Asset Link completed reasonable and proportionate checks to satisfy itself that Miss M would be able to repay the loan in a sustainable way, both at the point of granting the loan and once the initial low payment period had ended.

Asset Link needed to take reasonable steps to ensure it lent responsibly to Miss M. The relevant rules, regulations and guidance at the time Asset Link lent required it to carry out reasonable and proportionate checks.

These checks needed to assess Miss M's ability to afford the loan and repay it sustainably over its term without causing her financial difficulties. There isn't a set list of checks a lender needs to carry out, but they should be proportionate, taking into account things like the type, amount, duration and total cost of the credit, as well as the borrower's circumstances.

Under the relevant regulations at the time, Asset Link was entitled to rely on the expected future income for Miss M when making this assessment. This was on the basis that this assessment was appropriate (bearing in mind what these regulations required in terms of proportionality) and there was an appropriate exercise of forbearance in relation to any initial payments.

Asset Link says it completed reasonable and proportionate checks, including using statistical information based on what it knew about Miss M's proposed course of study. This also included consideration of Miss M's likely future income in her intended career. It also says it completed a credit search on Miss M before approving the loan - although it has only been able to provide us with a summary. It says that Miss M had unsecured debt of £6,440 of which around £2,700 was credit card debt. And as there was no suggestion of any significant history of missed payments or other payment issues, Asset Link considered that monthly repayments of £5 per month whilst Miss M was engaged in her course of study would be affordable.

Asset Link then went on to calculate Miss M's future expected income. It says this was based on the information it had at the time that Miss M would be earning an annual income of around £24,000 after completing her course of study. Asset Link has told us about the various data sources it used to help predict this. We also know that Asset Link uses information from third parties, including educational institutions, in order to calculate the likely salary. This was considered alongside what Asset Link already knew about Miss M's existing credit commitments. I consider the projected salary was broadly in line with the likely starting salary range for this occupation. So I'm satisfied that Asset Link has demonstrated that it has come to a reasonable figure, based on different sources of information. I've also kept in mind that it was exercising reasonable initial forbearance by setting a low nominal payment during Miss M's period of study, prior to Miss M finding work and starting to earn the predicted income.

However, just because I think Asset Link carried out proportionate checks, it doesn't automatically mean it made a fair lending decision. So, I've thought about what the evidence and information showed.

Miss M was taking on a substantial credit commitment repayable over 12 years. As I've already mentioned, I haven't seen the full credit check that Asset link obtained at the time. But I think it's reasonable to have expected Asset Link to have taken the necessary steps to ensure it had a reasonably detailed picture of Miss M's financial situation. I would also expect this to include available details of her existing credit commitments.

At the time she applied for the loan, Miss M was earning a gross annual salary of around £32,000. She would therefore be receiving net monthly pay of around £2,100. I can't see that Asset Link asked Miss M to provide proof of salary. This could have been achieved for example by Miss M providing a copy payslip or copy bank statements.

I also think it would have been proportionate for Asset Link to have found out more about Miss M's committed expenditure, aside from her existing credit. This would include areas of her spending such as housing costs and daily living costs, for example food, travel and clothing. I can't be sure exactly what Asset Link would have found out if it had asked. But in the absence of anything else, I think it would be reasonable to place significant weight on the

information contained in Miss M's bank statements as to what would most likely have been disclosed.

I've reviewed eight months of bank statements leading up to the lending decision. These show that Miss M's committed expenditure, including her existing credit, housing costs, food and other daily living expenses were taking up most if not all of her monthly income. She was also making consistent use of her overdraft, going up to and sometimes exceeding its £2,500 limit each month before being paid her monthly salary, leading to direct debits being returned. As a result, she was also incurring daily overdraft fees. Whilst the use of an overdraft is not in itself necessarily an indication of being in a difficult financial position, what Asset Link was likely to have seen needs to be weighed up in the context of Miss M's future income, which was considerably less than her existing salary.

Given that Miss M was 'treading water' financially to the extent that she was reliant on the availability of her overdraft, I think Asset Link ought to have considered the impact that further lending might have. From what I've seen of Miss M's financial situation in the months leading up to the loan, I think it's highly likely that taking on the higher level of payments would have led to an immediate deterioration in Miss M's financial circumstances. I therefore agree with our investigator that she would be unlikely to have enough, if any, disposable income available each month to afford the higher level of borrowing once the payments became due.

It follows that I don't think Asset Link acted reasonably and fairly in granting Miss M this loan.

### **Putting things right – what Asset Link needs to do**

As I'm satisfied Asset Link should not have provided the loan to Miss M, she has lost out financially by having to pay additional interest and charges.

In order to put things right, I require Asset Link to:

- Add up the total amount of money Miss M received as a result of having been given the loan. The repayments Miss M S made should be deducted from this amount.
- If this results in Miss M having paid more than she received, then any over-payments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). †
- If any capital balance remains outstanding, then Asset Link should defer or limit repayments until Miss M is in a suitable position to make the repayments.

Asset Link should complete a regular review of Miss M's finances to determine whether she is in a suitable position to make sustainable repayments. This review should be completed regularly (no shorter than every six months) to establish if Miss M's income has met the necessary level for her to make any repayments sustainably. Once she is earning the appropriate income to afford sustainable repayments, Asset Link should attempt to arrange an affordable/suitable payment plan with her. If Miss M does not cooperate with any reasonable attempts Asset Link makes to establish her affordability; then it can continue to pursue the repayment of the debt.

- Once the loan amount has been repaid, remove any negative information recorded on Miss M's credit file.

† If Asset Link considers that it's required by HM Revenue & Customs to deduct income

tax from that interest, it should tell Miss M how much it's taken off. It should also give Miss M a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

### **My final decision**

My final decision is that I uphold Miss M's complaint against Link Financial Outsourcing Limited trading as Asset Link Capital (No. 9).

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 29 November 2023.

Michael Goldberg

**Ombudsman**