

Complaint

Mr O has complained about a loan that Link Financial Outsourcing Limited (trading as “Asset Link” Capital (No.9)) is now responsible for. He says that the loan has caused him significant financial hardship and should never have been provided to him.

While Asset Link Capital (No.9) is now responsible for Mr O’s loan, it didn’t originally provide it to him. Mr O’s loan was part of a book of loans that were originally provided by Future Finance before it subsequently entered into administration. As a result Future Finance sold its legal and beneficial title in the loans to Asset Link Capital (No.9).

For ease of reference, in this decision, I will refer to Future Finance when considering the decision to provide the loan in the first place and collect full payments. However when it comes to future events and the payment arrangements agreed, as all of these matters took place after the transfer, I will refer to Asset Link in relation to these issues.

Background

Future Finance agreed to provide Mr O with a loan for £13,800.00 in January 2020. The loan was to support Mr O with his tuition and living expenses while he completed a full-time study course. £9,000.00 of the loan was to cover tuition fees and the rest of the funds (£4,800.00) were for Mr O’s living expenses.

Mr O’s loan had a variable APR of 21.8% and a term of 91-months. This meant that the total amount to be repaid of £28,772.68, which included interest, fees and charges of £14,972.68 (made up of interest of £14,075.68 and a £897 origination charge) was due to be repaid in an initial 7 monthly instalments of £5 followed by 84 instalments of £342.13. The lower in-study payments were to reflect the fact that Mr O would make lower repayments for the period that he was a full-time student.

One of our investigators reviewed what Mr O and Future Finance had told us. And he thought that Future Finance hadn’t done anything wrong or treated Mr O unfairly when providing the loan. But he did think that Future Finance needed to adjust Mr O’s account balance to reflect the fact that it shouldn’t have interest in the way it did after Mr O had an arrangement to make reduced payments to the loan balance.

Future Finance didn’t respond but Mr O disagreed with our investigator’s assessment and asked for an ombudsman to look at his complaint.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Mr O’s complaint.

The decisions to provide Mr O with his loan and then start collecting the full payments from him

Future Finance needed to make sure that it didn't lend irresponsibly. In practice, what this means is Future Finance needed to carry out proportionate checks to be able to understand whether Mr O could afford to repay before providing this loan.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

Future Finance says it agreed to Mr O's application after he provided details of his monthly income and some information on his expenditure. It says it cross-checked this against information on a credit search it carried out. And in its view, all of this information showed Mr O could afford to make the repayments he was committing to.

On the other hand, Mr O has said he should never have been provided with this loan because of his existing financial position.

I've carefully thought about what Mr O and Future Finance have said.

The first thing for me to say is that Mr O's loan wasn't a typical arrangement, as there was a clear understanding that he wasn't immediately able to make the full monthly repayments as he was going to be studying on a full-time basis. However, as a result of this Mr O was only required to make reduced payments for the duration of his studies.

It was only when these were completed and a couple of months had passed to allow him to find employment, would Mr O have to make the increased repayments. And this was due to happen from November 2020 onwards.

Regarding Mr O's situation at the time of the application, the information provided does suggest Mr O was asked to provide some details regarding his income and expenditure and Future Finance didn't just rely on what it was told as it carried out a credit search too. The credit search that Future Finance carried out did indicate that Mr O had some existing debt. And the information Mr O has provided suggests that he may have taken some payday loans prior to this application.

But Mr O's existing debt appears to have been reasonably maintained. And there isn't anything in the information provided that suggests to me that Mr O wouldn't have been able to repay the very low monthly in-study payments. I say this particularly given the number of discretionary transactions on the statements Mr O has provided from the time too.

I'm also mindful that Mr O was already committed to his course at the time that he took this loan. Given he was always going to incur any expenses that this loan was earmarked to cover, it seems to me what Mr O has said about his use of payday loans indicated that that is the type of lender he would have turned to in the event Future Finance had turned down his application.

I think this is important given the fact that Mr O wouldn't start fully repaying this loan until his salary had improved after completing his course, which wouldn't have been the case with payday type finance. This type of finance would also have been much more expensive too. Bearing all of this in mind, I think that Future Finance's decision to provide the loan in the first instance wasn't unreasonable.

As a result of the type of loan and Mr O's eventual need to make increased payments, Future Finance should probably have checked with Mr O to see that he had secured employment and how much he was earning before November 2020. I think it would have been particularly important for Future Finance to have done this given the general economic situation at the time.

I can see that in October 2020 there was some discussion between Mr O and Future Finance for a three month pause to apply on this account. So while Future Finance might not have proactively contacted Mr O, it was, in any event contacted by Mr O and he was able to get a payment deferral until the time he was able to make payments.

So overall and bearing in mind everything, I don't think that Future Finance did anything wrong when deciding to lend to Mr O - it carried out proportionate checks (although I accept that Mr O disputes this) and reasonably relied on what it found out which suggested this loan would help Mr O with his expenses while he studied for a qualification that would increase his earning potential.

I accept that it probably should have done more to establish that Mr O's income had increased before November 2020, but as Mr O, in any event, got in touch and another deferral period was agreed before higher payments were collected, I don't think doing more would have seen it deciding against collecting higher payments at the time that it did.

Mr O's arguments regarding the costs of the loan and not being given advice

I have thought about what Mr O has said about the costs of the loan not being made clear to him. However, the information regarding the cost of the agreement, which is set in the background section of this final decision, is taken directly from the credit agreement Mr O signed.

Mr O electronic signed a declaration on the form indicating that he agreed to be bound by the agreement. I accept it's possible that Mr O did not consider all of the information he was provided with at the time. But at the very least I would have expected him to review how much he would have to pay before signing his agreement.

So I think that Mr O was notified of the costs of the agreement - including the difference in payments between the in-study payments and what he'd have to pay once he finished his loan - and he ought to have considered this information before he agreed to enter into it.

Furthermore, while I've seen what Mr O has said about not receiving advice, it was not for Future Finance to advise him on how to manage his finances or whether this loan was the best way for him to fund his studies.

So I don't think that Future Finance not providing Mr O with advice meant that it failed to act fairly and reasonably and I'm not upholding this part of the complaint either.

Reduced payment plan

It isn't in dispute that post it taking on Mr O's loan Asset Link became aware that Mr O was having difficulty making his payments by January 2023. Mr O appears to have had contact

with Asset Link prior to this time and he explained he was experiencing difficulty making his loan payments.

When a lender becomes aware that a borrower is experiencing difficulty making their payments, it is fair and reasonable to expect it to exercise forbearance and due consideration, in line with its regulatory obligations. There are a number of ways that this could be done.

In this case, Asset Link has ended up accepting reduced payments, which he confirmed he was able to make, from Mr O. It appears that there was an acceptance that these reduced payments would continue until January 2024. I think that this was a reasonable starting point for Asset Link actions here. However, I don't think that this in itself quite goes far enough.

To explain, while Asset Link has agreed to accept payments of £150 a month from Mr O for a year, it is still applying interest to the full balance. Indeed, having looked at Mr O's statement of account, it's clear that the amount of interest being added to the balance exceeds the amount of his reduced payment and this has had the effect of increasing his balance.

In my view, I can't see how it is fair and reasonable for Asset Link to, on the one hand, accept reduced payments from Mr O because it acknowledges that he is experiencing financial difficulty, yet on the other hand, add interest (of amounts more than the payments being made) therefore increasing his balance. I can't see that increasing a borrower's debt in circumstances where there is an acceptance that they are struggling, is helping them with repay the debt, or more importantly treating them fairly and reasonably.

So while I accept that Asset Link accepting reduced payments from Mr O in January 2023 was fair and reasonable, I don't think that this extends to it being fair and reasonable for it to have continued adding interest in these circumstances. And I'm satisfied that adding interest from January 2023 onwards saw Asset Link failing to treat Mr O fairly and reasonably and so it should now put things right.

Fair compensation – what Asset Link needs to do to put things right for Mr O

Having thought about everything, I'm satisfied that Asset Link should put things right for Mr O by:

- removing any and all interest, fees and charges that has been added to Mr O's balance since he went on to reduced payments from January 2023 onwards.
- continue carrying out income and expenditure assessments with Mr O to determine if and when he is able to resume the contractual repayments on his loan. Asset Link should suspend adding interest until an income and expenditure assessment shows that Mr O is able to resume contractual repayments.

For the sake of completeness and the avoidance of doubt, I wish to make it clear that my direction here does not preclude Asset Link from terminating Mr O's agreement if and when it decides that its relationship with him has broken down and there is no reasonable prospect of him returning to fulfilling his side of the agreement as intended.

My final decision

For the reasons I've explained, I'm partially upholding Mr O's complaint. Link Financial Outsourcing Limited (trading as Asset Link Capital (No.9)) should put things right in the way that I have directed in the section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 15 February 2024.

Jeshen Narayanan
Ombudsman