

The complaint

Mr H complains that Salary Finance Limited irresponsibly agreed a loan for him.

What happened

Salary Finance agreed a loan of £7,000 for Mr H in August 2022. The total amount owed was £10,775 to be repaid at £180 a month over 60 months (figures rounded). I understand that Mr H entered into a debt management plan with all his creditors in early 2023 with help from a national charity.

Mr H complained to Salary Finance and said the loan was unaffordable for him from the beginning. He said that Salary Finance should have seen this from his high levels of existing debt.

Salary Finance said it reviewed Mr H's credit file when he applied which showed no adverse information and its assessment found the loan would be affordable for him. It didn't uphold Mr H's complaint and he referred it to us.

One of our investigators looked into the complaint but didn't recommend that it be upheld. They found that Salary Finance had conducted a proportionate check and there wasn't anything in the information it gathered to suggest that the loan would be unaffordable for Mr H.

Mr H didn't agree with this recommendation and asked for the complaint to come to an ombudsman to decide and it came to me. I issued a provisional decision on 12 December 2023 explaining why I thought Mr H's complaint should succeed. Mr H accepted my provisional decision but Salary Finance didn't and provided further comments for me to consider when making my final 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.

Having reviewed everything again including what Salary Finance said in response to my provisional decision, I remain of the view that Mr H's complaint should be upheld. I'll explain why again in this final decision and refer to Salary Finance's comments where appropriate.

As before, I've had regard to the regulator's rules and guidance on responsible lending (set out in its consumer credit handbook – CONC) which lenders, such as Salary Finance, need to abide by. Salary Finance will be aware of these, and our approach to this type of lending is set out on our website, so I won't refer to the regulations in detail here but will summarise them.

Before entering into the credit agreement, Salary Finance needed to check that Mr H could afford to meet his repayments out of his usual means for the term of the loan, without having to borrow further and without experiencing financial difficulty or other adverse

consequences. The checks needed to be proportionate to the nature of the credit (the amount borrowed, for example) and take into consideration Mr H's circumstances.

Salary Finance needed to bear in mind that certain factors might point towards a more rigorous assessment and others towards a less rigorous one when deciding what type of creditworthiness assessment was required. CONC states that such factors include the cost of the credit relative to the customer's financial circumstances. Where the repayments are low the amount of information that would be sufficient to support a reasonable assessment might be less than would be required in the case of more expensive credit or where the credit might be expected to have a more significant impact on the customer's financial situation.

Ultimately, Salary Finance needed to treat Mr H fairly and take full account of his interests when making its lending decision.

Mr H's application form records that he was employed with an income of £19,953 or a total monthly income of £1,471 net. Salary Finance verified Mr H's income by contacting his employer. Mr H gave his housing costs as £200 and Salary Finance estimated his monthly expenses as £611 based on national statistical datasets.

Mr H's credit file showed he had £8,858 of outstanding debt which included around £5,300 across six revolving credit accounts, two overdrafts amounting to around £2,600 combined and a loan with a balance of £930 and monthly repayments of £30. Salary Finance estimated Mr H's monthly debt repayments came to £262 and concluded that he'd have around £200 a month spare after meeting the loan repayment of £180.

Salary Finance said in response to my provisional decision that there was no adverse information recorded on Mr H's credit file and he appeared to be managing his existing credit without issue. It said that there was no indication from this information that it should carry out any enhanced due diligence. I accept that there wasn't any adverse information recorded for Mr H's active debts. (Two accounts had default markers and appear to have been settled before this loan was taken out.) However, there were other indications that Mr H might have had difficulty meeting his loan repayments and so, as I'd said in my provisional decision, Salary Finance's checks might have been proportionate in some cases but I don't consider that they were on this occasion.

This was because Mr H already had sizeable debts relative to his income and wasn't earning enough to take him out of his overdraft each month; this loan wasn't for debt consolidation but for further spending, and agreeing this loan for Mr H would potentially increase his debt to almost £20,000 and his monthly repayments on debt to almost a third of his income, based on Salary Finance's estimate. I think Salary Finance should have carried out a more rigorous check here to understand what Mr H's actual expenses were in order to reasonably assess whether he'd be able to meet his repayments without difficulty for the loan term.

Mr H provided his bank statements from the time and I've reviewed these. To be clear, I'm not suggesting this is the information that Salary Finance should have gathered but it is the information I have available and I think it's reasonable to rely on these to understand Mr H's means. These show that Mr H's rent was twice what he'd said at £400 and he had more debt than his credit file check had shown, for example he was making monthly payments of over £150 to a second loan and was also paying over £50 a month interest on his overdrafts.

Salary Finance said in response to this that had Mr H told it his rent was £400 he would still have passed its affordability assessment. Salary Finance also said that it had included an amount in its estimate of Mr H's monthly debt repayments which covered the overdraft interest and that it didn't see the loan with repayments of £150 in its credit file check

because different lenders report to different credit reference agencies. Finally, Salary Finance said that Mr H had a good level of disposable income according to the information it relied on.

I doubt I'd consider that Salary Finance made a fair lending decision or paid due regard to Mr H's interests if its assessment only considered the amounts he needed to continue servicing his debts or left him with nothing spare each month after meeting his loan repayment. I appreciate that the credit check Salary Finance conducted didn't reveal the extent of Mr H's debt, but as I've explained above I don't think its checks went far enough on this occasion.

As I'd said in my provisional decision, I think it's likely Salary Finance would have learnt that the loan was unaffordable for Mr H and that he was reliant on credit to meet his living costs had it conducted a proportionate check. Mr H didn't have enough money coming in to make inroads into his debts and by the time he entered into a debt management plan in early 2023 his debts had increased to over £27,000. I think this outcome was foreseeable and I've concluded that Salary Finance was irresponsible to have entered into this agreement with Mr H and I am upholding his complaint.

Putting things right

I've concluded that Salary Finance was irresponsible to have agreed this loan for Mr H. As Mr H had the use of the money he borrowed I think it's fair that he repays this, but he shouldn't have to pay any interest, fees or premiums associated with the loan or have his credit file adversely impacted.

To put things right for Mr H, I'm proposing that Salary Finance should:

- Cap the amount he needs to repay at the capital amount he borrowed, this being £7,000;
- Consider all payments he's made as payments towards this capital amount;
 - If Mr H has repaid more than the capital he borrowed (which I don't think is the case) then Salary Finance should refund these overpayments to him along with 8% simple interest per annum*;
 - If Mr H hasn't yet repaid the capital then Salary Finance should treat him fairly and sympathetically which may mean coming to an agreed arrangement plan with him or amending a plan already in place;
- Remove any adverse information about this loan from Mr H's credit file, once settled.

* HM Revenue & Customs requires Salary Finance to take off tax from this interest. It must give Mr H a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons given above, I am upholding Mr H's complaint about Salary Finance Limited and it now needs to take the above steps to put things right for him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 19 January 2024.

Michelle Boundy
Ombudsman