DRN-4601768

The complaint

Mr S complains that Chetwood Financial Limited irresponsibly agreed loans for him.

What happened

Chetwood agreed two loans for Mr S, both on 11 July 2022. The first was agreed under its trading name BetterBorrow and the second under the name LiveLend. I've summarised some of the information Chetwood provided about these loans in the table below.

	Start date	End date	Amount borrowed	Monthly payents	Loan term (months)	Total owed
Loan 1	11/07/2022	Outstanding	£3,000	£120.73	36	£4,346.57
Loan 2	11/07/2022	Outstanding	£4,000	£125.88	60	£7,552.33

Mr S met his repayments for these loans until April 2023 at least. He complained to Chetwood that it was irresponsible to have agreed the loans for him because he had existing debt and was struggling to manage his money at that time.

Chetwood said that it carried out affordability assessments before lending to Mr S to check he could afford the repayments. It relied on information he provided, information from his credit file and statistical data and concluded that the loans would be affordable for him. It didn't uphold Mr S's complaint and he referred it to us.

One of our investigators looked into Mr S's complaint and didn't recommended that it be upheld. They found that Chetwood carried out proportionate checks before lending to Mr S each time and the checks showed that the loans would be affordable. They concluded that Chetwood didn't get anything wrong by lending to Mr S.

Mr S didn't agree with this conclusion and asked for his complaint to come to an ombudsman and it came to me. I issued a provisional decision on 10 January 2024 explaining why I thought Mr S's complaint should succeed. I allowed time for any comments or new information from either party. Mr S agreed with my decision and Chetwood confirmed that it had no further comments to add.

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, and having no comments or new information to consider, I see no reason to depart from my provisional conclusions. I'll set out my reasons for upholding Mr S's complaint again in this final decision.

As before, I've also had regard to the regulator's rules and guidance on responsible lending (set out in its consumer credit handbook – CONC) which lenders, such as Chetwood, need to abide by. Chetwood 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 a credit agreement, Chetwood needed to check that Mr S could afford to meet his repayments out of his usual means for the term of the loan, without having to borrow further, while meeting existing commitments and without the repayments having a significant impact on his financial situation. The checks needed to be proportionate to the nature of the credit (the amount borrowed or the term, for example) and to Mr S's circumstances. Chetwood 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.

The overarching requirement was that Chetwood needed to pay due regard to Mr S's interests and treat him fairly. CONC gave an example of contravening this as 'targeting customers with regulated credit agreements which are unsuitable for them by virtue of their indebtedness, poor credit history, age, health, disability or any other reason.'

With this in mind, my main considerations are did Chetwood complete reasonable and proportionate checks when assessing Mr S's applications to satisfy itself that he would be able to make his repayments without experiencing adverse consequences? If not, what would reasonable and proportionate checks have shown and, ultimately, did Chetwood make fair lending decisions?

Chetwood provided the information it relied on in its assessments which included Mr S's application form for his loans. It explained that it verified his income using an online credit reference agency tool which analysed current account turnover. It used information from Mr S's credit file to estimate his monthly debt repayments and estimated his other expenses using national datasets.

Mr S said in his application form that his net monthly income was £1,988 and Chetwood's online check yielded a high confidence in this figure as it had been consistent over the previous six months. Its credit file check showed that Mr S had £15,660 of existing debt with three loans including a hire purchase agreement, seven credit cards and a mail order account. Chetwood estimated that Mr S spent £797 a month repaying his debts, £648 on living costs and £82 on housing. This left him with a disposable income of around £340 after meeting his loan repayment of £121. Chetwood noted that agreeing this loan committed Mr S to spending 46% of his income on repaying debt.

Mr S applied for a second loan within the hour. Chetwood carried out the same checks and found that Mr S would have a disposable income of £222 after meeting his repayments for both loans. It noted that Mr S would now spend around 52% of his monthly income repaying debt.

Chetwood said that while it saw some evidence of adverse credit behaviour on Mr S's credit file, there was no obvious excess use of credit and he didn't have any short term borrowing. Chetwood concluded that the loans would be affordable for Mr S and noted that his level of debt relative to his income was within its lending tolerance.

I think Chetwood's checks might have been proportionate in some cases but I don't consider that they were for either of these lending decisions. As Chetwood will know, the regulations require lenders to check that credit will be affordable without the borrower experiencing significant financial impacts, not simply that the credit is affordable on a pounds and pence basis. Mr S had a level of existing debt which meant that agreeing further credit committed him to spending a sizeable proportion of his income meeting his repayments, and he would need to meet repayments for both loans for three years and the second for five years altogether.

Given the impact his debt repayments would have on his finances going forwards, I think Chetwood should have carried out a more rigorous check here to verify that Mr S was in fact earning what he'd said and to understand more about his finances in order to reasonably assess whether he'd be able to meet his repayments without difficulty for the loan terms. Mr S provided a recent copy of his credit file and copies of his bank statements covering the months before the loans. I'm not suggesting that Chetwood ought to have used Mr S's bank statements specifically, but it's the information I have and I think it's reasonable for me to rely on these to come to an understanding of Mr S's finances at the time.

I can see from the bank statements that Mr S's income came to less than he'd stated in his application form at around £1,500 a month on average for March, April and May 2022. I haven't seen evidence of other regular income through there were other deposits into his account, some of which were referenced 'mum' or were from gambling companies. I have noted that on a few occasions the deposits referenced 'mum' covered different loan payments however, the loans were in Mr S's sole name and he was ultimately responsible for repaying them.

The bank statements also show that Mr S's regular monthly expenses for his car insurance, tax and fuel along with what appear to be regular rent payments to his mother, and modest supermarket and transport costs came to at least £500. Mr S also spent considerable sums on entertainment but leaving aside these costs, the loan repayments don't appear to be affordable for Mr S or leave him with enough to cover any unexpected or one-off costs. I think it's likely that Chetwood would have learnt this had it carried out proportionate checks before lending and would not have entered into the agreements.

It's possible that agreeing a second loan for Mr S with his level of income and his existing debts would have contravened Chetwood's lending policy. But in any case, I cannot find that Chetwood treated Mr S fairly and with due regard to his interests when it agreed to lend to him on either occasion. Agreeing these loans meant that Mr S would potentially spend over 60% of his monthly income repaying his debts including his first loan, rising to 70% with a second loan. Chetwood hasn't said that these loans were for debt consolidation and there's no evidence on Mr S's credit file that they were used for this purpose. I think Mr S was already overindebted and it wasn't likely that he would be able to meet his repayments for these new loans for the whole of the loan terms while meeting his other credit commitments and without borrowing again.

Mr S told us that he was having difficulty managing his money at that time and agreeing these loans increased his debts and caused him stress. He shared with us that he was having personal difficulties and his spending patterns left him dependent on his family to help him repay his debts. I can see from Mr S's credit file that he took out another loan and a credit card before the end of 2022, and had opened another two credit accounts and taken out another loan before 12 months had passed.

Altogether, I've concluded that Chetwood was irresponsible to have agreed these loans for Mr S and so I am upholding his complaint.

Putting things right

As I've explained above, I've concluded that Chetwood was irresponsible to have agreed two loans for Mr S in July 2022. I think it's fair that he repays the capital amount he borrowed as he's had the use of the money however, I don't think it's fair that Mr S pays any interest, fees or premiums associated with the loans.

To put things right for Mr S, Chetwood should:

- Cap the amount he needs to repay at the capital amount he borrowed, this being £7,000 in total;
- Consider all payments he's made as payments towards this capital amount; and
    - If Mr S has repaid more than the capital he borrowed, which I don't think is the case here, then Chetwood should refund these overpayments to him along with 8% simple interest per annum*; or
    - If he hasn't yet repaid the capital then Chetwood should treat Mr S fairly and with forbearance which might mean agreeing an affordable repayment plan with him.
- Remove any adverse information about these loans from Mr S's credit file once settled.

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

My final decision

For the reasons I've explained above am upholding Mr S's complaint about Chetwood Financial Limited and propose that it puts things right for him as I've set out.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 4 March 2024.

Michelle Boundy
Ombudsman