DRN-4644507

The complaint

Mr S complains that My Finance Club Limited ("MFC") gave him a loan without looking at his financial situation. Mr S says that, had it made better checks, it would've seen he was in a desperate financial situation.

What happened

Mr S was advanced one loan of £400 on 13 February 2023. The agreement was due to run for 38 days with one payment due to MFC of £521.60. Mr S has had some problems repaying his loan and the latest information suggests an outstanding balance remains due.

After Mr S made a complaint about the loan, MFC responded and explained why it wasn't going to uphold his complaint. Unhappy with the response, Mr S referred the complaint to the Financial Ombudsman.

In the investigator's assessment, he didn't uphold the complaint because the checks that MFC carried out showed it that Mr S should be able to afford his repayment.

Mr S didn't agree with the outcome saying his credit rating and defaults ought to have led MFC to have declined the application. As no agreement has been 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 S could afford to pay back the amount 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 S'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 S. These factors include:

- Mr S 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 S 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 S 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 S. I don't think this applied to Mr S's complaint because he only had one loan.

MFC was required to establish whether Mr S could *sustainably* repay the loan – not just whether he technically had enough money to make his repayment. Having enough money to make the repayment could of course be an indicator that Mr S was able to repay his loan 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 S's complaint.

Before the loan was approved, Mr S declared he earned £2,034 per month. MFC also obtained a copy of Mr S's most recent pay slip – which confirmed the income Mr S had declared was accurate.

In terms of monthly expenditure, Mr S provided details about his expenditure across several different headings such as, housing, utilities, 'other', food and other credit commitments– to name a few. MFC says Mr S's outgoings came to £917 per month. Therefore, based on the information it had to hand the loan looked affordable as there was sufficient disposable income to enable Mr S to afford the repayment.

Before the loan was 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.

I am satisfied that the credit check results wouldn't have raised any concerns for MFC. It knew that Mr S had opened a new loan account three months before this MFC loan but to date that loan had been managed well with no adverse payment information.

MFC was also told (through the credit check results) about a current account that had been managed well. There was also a credit card that Mr S had maintained for a number of years and again, this appeared to have been managed well. Finally, there was a mobile phone contract that at various times had been in arrears but these arrears had been cured quickly, so I don't think MFC would've seen that as a concern when all other accounts had been well managed and were up to do date.

In my view, the credit checks didn't raise any concerns and there wasn't anything else from the results that ought to have prompted MFC to have either carried out further checks or to have declined Mr S's application for credit.

There were also no triggers in the information given to MFC to have prompted it to have reviewed bank statements or to have prompted it to have carried out any other form of verification. I accept some of the information Mr S gave about his expenditure may not have been entirely accurate. But I don't think MFC would've known, or ought to have known about Mr S's financial difficulties, given the information it was provided and what it discovered through its own checks.

So it therefore follows, that given the loan value and the fact this was the first loan from MFC, it would've been disproportionate for it to have considered bank statements or any other form of documentation.

Overall, given this was the only loan, it was reasonable for MFC to have relied on the information that Mr S provided about his income and expenditure. The checks MFC carried out were proportionate and showed Mr S should be able to afford the repayments. There also wasn't anything else to suggest that the loan would either be unaffordable him or unsustainable for him.

An outstanding balance does remain due, and it seems that no more interest can be added to the balance due to the loan repayment amount being at the cost cap – which was set up the industry regulator. Both parties may wish to discuss a way forward, but I would remind MFC of its obligation to treat Mr S fairly and with forbearance.

I do not uphold Mr S's complaint about MFC's decision to provide the loan.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 22 April 2024.

Robert Walker
Ombudsman