

The complaint

Mr W complains through a representative that FUND OURSELVES Limited trading as Fund Ourselves ("Fund Ourselves") gave him a loan without carrying out sufficient affordable checks.

What happened

Mr W was advanced one loan on 24 February 2023 for £200. Mr W was due to make four monthly repayments of £86.80. Fund Ourselves says Mr W has had some problems repaying this loan and based on the most recent information I have an outstanding balance remains due.

Mr W's representative referred his complaint to the Financial Ombudsman after it had been reviewed by Fund Ourselves who didn't uphold it. But Fund Ourselves did offer to assist Mr W in repaying the balance through a repayment plan.

The complaint was considered by an investigator, and she didn't think Mr W's complaint should be upheld because proportionate checks had been carried out. She was also satisfied that there was no indication that Mr W was in financial difficulties, or that further checks needed to have been conducted.

Although, she did say the credit check results indicated Mr W's monthly credit commitments were greater than what he had declared, but even using the information from the credit check results, the loan still looked affordable.

Mr W's representative didn't agree with the proposed outcome.

As no agreement was reached the complaint was passed to me and I issued a provisional decision explaining why I was intending to uphold the complaint. Both parties were asked for any further submissions as soon as possible, but in any event, no later than 19 March 2024.

Neither Mr W nor his representative responded to the provisional decision. Fund Ourselves acknowledged the provisional decision and said it had nothing further to add.

A copy of the provisional findings follows this and form part of this final decision.

What I said in my provisional decision:

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.

Fund Ourselves had to assess the lending to check if Mr W 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. Fund Ourselves' checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments,

and Mr W'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 Fund Ourselves should have done more to establish that any lending was sustainable for Mr W. These factors include:

- *Mr W 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 W 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 W 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 W. But as there was only one loan, I don't think this applied here.

Fund Ourselves was required to establish whether Mr W could sustainably repay the loan – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr W was able to repay his loans 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 W's complaint.

As part of his application, Mr W declared he worked full time and received a monthly income of £2,500. For a first loan, I think it was reasonable for Fund Ourselves to have relied on what Mr W declared about his income.

Mr W was also asked to declare his outgoings across several different categories, such as travel, rent, utilities, food and commitments. Mr W declared his outgoings were £1,495. As this was the first loan, I think it was, at this time, reasonable of Fund Ourselves to have relied on the information Mr W had provided. Fund Ourselves believed, based on the information Mr W provided that he had enough disposable income to afford the largest monthly loan repayment of around £87.

Fund Ourselves also carried out a credit search and it has provided the results it received from the credit reference agency. It is worth saying here that although Fund Ourselves carried out a credit search there wasn't a regulatory requirement to do one, let alone one to a specific standard. But what Fund Ourselves couldn't do is carry out a credit search and then not react to the information it received – if necessary.

The results of the credit search in my view should have been concerning for Fund Ourselves. The results showed Mr W had 20 active accounts owing other creditors just over £18,000. Fund Ourselves was also told he had opened four new accounts within the last 6 months.

Fund Ourselves was provided with information about Mr W's active credit facilities. This is important because Mr W's representative says that at the time he had a number of missed payments recorded on his credit file.

Fund Ourselves was aware Mr W had a number of credit cards, current accounts, loans and a hire purchase agreement. Fund Ourselves was also told that Mr W had five accounts in various stages of arrears. These were spread across a hire purchase agreement, three credit cards and a personal loan. All of these arrears were showing as a "1" or a "2" indicating that Mr W hadn't made payments for up to 2 months.

In some situations, I may have concluded that Fund Ourselves ought to have done better checks before granting the loans. However, in this case, and weighing up the other information Fund Ourselves had to hand. I don't think it necessary for it to have conducted further checks because I do think the amount of arrears across a number of different accounts ought to have led Fund Ourselves to conclude that Mr W was having financial difficulties rather than just forgetting to make a payment. As such, given Fund Ourselves was aware of Mr W's financial difficulties, I therefore have concluded that it ought to not have granted the loan.

I have also considered that Mr W's outgoings for credit commitments were greater than the £50 he declared to Fund Ourselves. As the investigator identified, although I would add that in the final response letter, Fund Ourselves says it noticed this and took "these figures into consideration". But even if Fund Ourselves didn't do this, then it doesn't change the outcome I am intending to reach because there was more than enough information within the credit report to indicate he was having current financial difficulties.

Overall, the credit check results were of sufficient concern to show that Mr W was having problems managing a number of existing credit commitments. In those circumstances, Fund Ourselves ought to have reasonably concluded that Mr W wouldn't be in a position to repay this loan in a sustainable manner.

I've set out below what Fund Ourselves needs to do in order to put things right for Mr W.

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.

As neither party has provided any further submissions, I see no reason to depart from the findings I reached in the provisional decision. I still think Fund Ourselves was given sufficient information from the credit search results to indicate that Mr W was having problems managing his current credit commitments and therefore it shouldn't have granted the loan.

I've therefore upheld Mr W's complaint and I've outlined below what Fund Ourselves needs to do in order to put things right for him.

Putting things right

In deciding what redress Fund Ourselves should fairly pay in this case I've thought about what might have happened had it not lent to Mr W, as I'm satisfied it ought to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Mr W may have simply left matters there, not attempting to obtain the funds from elsewhere. If this wasn't a viable option, they may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, they may have decided to approach a third-party lender with the same application, or indeed a different application (i.e. for more or less borrowing). But even if they had done that, the information that would have been available to such a lender and how they would (or ought to have) treated an application which may or may not have been the same is impossible to now accurately reconstruct. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Mr W in a compliant way at this time.

Having thought about all of these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Mr W would more likely than not have taken up any one of these

options. So, it wouldn't be fair to now reduce Fund Ourselves' liability in this case for what I'm satisfied it has done wrong and should put right.

Fund Ourselves shouldn't have given Mr W his loan.

If Fund Ourselves have sold the outstanding debt it should buy it back if Fund Ourselves is able to do so and then take the following steps. If Fund Ourselves can't buy the debt back then Fund Ourselves should liaise with the new debt owner to achieve the results outlined below.

- A. Fund Ourselves should remove all interest, fees and charges from the balance of the loan, and treat any repayments made by Mr W as though they had been repayments of the principal. If this results in Mr W having made overpayments then Fund Ourselves should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled.
- B. However, if there is still an outstanding balance then Fund Ourselves should try to agree an affordable repayment plan with Mr W. I would also remind it of its obligation to treat Mr W fairly and with forbearance.
- C. Fund Ourselves should remove any adverse information recorded on Mr W's credit file in relation to the loan.

*HM Revenue & Customs requires Fund Ourselves to deduct tax from this interest. Fund Ourselves should give Mr W a certificate showing how much tax it has deducted, if he asks for one.

My final decision

For the reasons I've explained above and in the provisional decision, I'm upholding Mr W's complaint.

FUND OURSELVES Limited trading as Fund Ourselves should put things right for Mr W as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 18 April 2024.

Robert Walker
Ombudsman