

## The complaint

Mr H complains that Valleys Finance Limited (“Valleys”) gave him loans which he couldn’t afford to repay. Mr H says he had to take other loans and use credit cards in order to make ends meet.

## What happened

A summary of Mr H’s borrowing can be found in the table below.

loan number	loan amount	agreement date	repayment date	number of weekly instalments	weekly repayment
1	£200.00	06/07/2021	08/10/2021	14	£20.00
2	£300.00	14/10/2021	19/03/2022	22	£21.00
3	£300.00	23/03/2022	30/08/2022	22	£21.00
4	£400.00	31/08/2022	08/02/2023	22	£28.00
5	£100.00	09/12/2022	16/05/2023	22	£7.00
6	£400.00	17/02/2023	12/07/2023	22	£28.00
7	£100.00	31/05/2023	outstanding	22	£7.00
8	£400.00	12/07/2023	outstanding	22	£28.00

The weekly instalment is the cost per week per loan, and so where loans overlapped the cost per week would be greater. For example, when loans seven and eight were running at the same time Mr H was due to pay Valleys £35 per week.

Following Mr H’s complaint, Valleys issued its final response letter in which Valleys didn’t uphold Mr H’s complaint about loans 1 - 5. But in light of Mr H’s financial situation and what he disclosed about his mental health that a refund would be offered for loans 6 and 7.

Valleys then said it would use the refund from loans 6 and 7 to offset the outstanding capital balance due for loan 8 and then write off the remaining balance and close the loan. Valleys then agreed to remove loans 6 to 8 from Mr H’s credit file.

Although the final response was silent on whether 8% simple interest was included within the calculations. Valleys did, during the investigation of Mr H’s complaint provide to the Financial Ombudsman calculations to show the offer included 8% simple interest.

Mr H didn’t agree with the proposed outcome and instead referred the complaint to the Financial Ombudsman.

The investigator, as part of her review of the complaint obtained further information from both parties including Mr H’s credit file and bank statements. From Valleys she asked for further information about the loan applications, credit searches, when it found out about Mr H’s mental health and whether it was aware that Mr H was gambling.

As part of this review, the investigator gave her initial findings to both parties over the phone. At which point, she thought that Valleys should also put things right for loan 5 – in addition to what it had already agreed to do.

Valleys agreed, and this settlement was then formally put to Mr H. In our investigator's written assessment she explained for loans 1 – 4, given the term of the loans and the capital borrowed, Valleys had carried out proportionate checks which showed, Mr H would likely be able to afford his repayments.

She also said, that even though Valleys had agreed to put things right for loan 5 – she concluded this needed to be done because it ought to have carried out further checks before lending. Those further checks would've likely shown that Mr H was spending significant sums each month on gambling and betting transactions. She didn't make a formal finding about loans 6 – 8 because the offer Valleys had made was in line with what she would've recommended had those loans been reviewed and upheld.

Finally, she addressed Mr H's additional concerns about what Valleys' agent knew about his mental health and that the agent knew he was gambling and had met him at a casino. She explained, she wasn't at the meetings so she couldn't say for sure what was discussed. Finally, even if Valleys knew about Mr H's health that doesn't mean Valleys shouldn't have lent to him.

Mr H responded and didn't agree with the outcome, and instead he asked for an ombudsman's decision. As no agreement could be reached the complaint has been passed to me for a decision.

Later, Valleys confirmed that the offer it had made about loan 5 included removing the loan from Mr H's credit file.

### **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 lending - including all the relevant rules, guidance and good industry practice - on our website.

Mr H has said that he's been told by a third-party debt advice service that none of the loans should've been granted, so I can understand why Mr H wants a refund of all the loans granted. But I have to take account of the rules and regulations and the nature of the checks that Valleys carried out. I've set out below the test that I'm using in order to determine whether it made an error when it granted some, or all of the loans.

Valleys had to assess the lending to check if Mr H could afford to pay back the amounts he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Valleys' 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 H'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 Valleys should have done more to establish that any lending was sustainable for Mr H. These factors include:

- Mr H 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 H 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 H 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 H.

Valleys was required to establish whether Mr H could sustainably repay the loans – 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 H 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 H's complaint.

Mr H has told the Financial Ombudsman (as well as Valleys) about his mental health. I'm sorry to hear about this and I do hope he is doing well. I say no more about his condition here because I don't need to in order to reach a fair outcome as well as to protect his privacy.

Mr H has in summary suggested that because of his mental health condition he shouldn't have been granted any of the loans. Valleys says that based on its notes, the earliest it became aware of this was after the loans had been granted. I also haven't seen anything else to suggest Valleys was aware of Mr H's mental health condition until he declared it to them at the end of July 2023 – which was after the loans were granted.

I would also be surprised and indeed concerned if a lender, of any description decided to deny access to credit purely because a customer had a mental health condition. In addition, even if Valleys was fully aware of Mr H's mental health at the time each loan was granted there isn't anything to suggest that Valleys needed to have done more or that it was fair and right to deny him credit. I am sorry to hear about the problems Mr H has had, but in the circumstances of this case, this wouldn't be a reason to uphold his complaint.

## **Loan 1**

For all the loans (not just loan 1) Valleys said it didn't carry out any sort of credit search. There was and is no requirements within the regulations for a lender to carry out a credit search let alone one to a specific standard. So, the fact Valleys didn't carry out any search when it advanced each loan isn't a reason, I can use to uphold the complaint.

Instead, I've considered the checks it carried out, what those checks showed Valleys and whether the information it did gather ought to have prompted further checks.

For loan 1, Valleys was told that Mr H's sole source of income was through benefits, and this worked out to be £283 per week. Valleys has confirmed that as part of this application it viewed Mr H's online statement. But Valleys has pointed out that the review of the bank statement was solely for the purpose of checking the income amount and frequency.

Mr H has provided copy bank statements for what appears to be the same account that Valleys would've likely reviewed at the time loan 1 was granted. Having reviewed the statements I can see the income that Valleys has noted on the application form (along with

the frequency) is accurate. So, I think it's fair to say that Valleys had a good idea of what Mr H's weekly income actually was.

I appreciate Valleys says that it saw the bank statement solely for the purpose of checking income, but I also think it would've been prudent that if it saw other information that may have concerned it – such as other lending or returned / missed payments that this was investigated further.

However, for the first loan, as far as I can see there wasn't any information that Valleys may have likely seen that would've prompted it to carry out further checks or indeed decline the loan application.

Valleys also made enquiries about his living costs, which Mr H declared to be £145 per week. Taking account of the verified income and Mr H's weekly commitment to Valleys, I'm satisfied it carried out a proportionate check which demonstrated to it, that Mr H would likely have been in a position to afford the repayments he was committed to making.

It therefore follows that as proportionate checks were conducted which demonstrated the loan was likely affordable, I am not upholding Mr H's complaint about this loan.

## **Loans 2 - 4**

Valleys carried out the same sort of checks for these loans as it had done for loan 1 – this means as before no credit search was conducted. It took details of Mr H's income – and cross referenced that from information in his bank statements and then it made further enquires with Mr H to establish what his likely living costs were.

As before, Mr H's income for all of these loans came from benefits and his income ranged between £287 and £315 per week. All of the application forms suggest that Valleys reviewed Mr H's bank statements to verify Mr H's income.

I've also had a look through the bank statements from the period Valleys' annotations on the application say it saw. Having done so, the income figure recorded in Valleys' affordability assessment seems broadly accurate and so I do think it's right to conclude that Valleys had a fairly accurate picture of Mr H's income.

As before, Mr H's weekly expenditure was calculated based on the information he provided across a number of different categories. Overall, his declared outgoings were as low as £129 per week when loan 3 was advanced and as high as £211 when loan 4 was advanced. It would've been apparent to Valleys based on the information that it gathered before these loans were granted that Mr H would likely be in a position to afford the largest weekly repayment of £28.

Valleys also asked Mr H why he was borrowing each time, for example loan 2 was granted to enable Mr H to purchase Christmas presents. At this early stage of the lending relationship, it was entirely reasonable and appropriate for Valleys to have relied on the information it was given as to why Mr H wanted such a loan.

These loans appeared to have been repaid in accordance with the loan terms. In addition, at this point the loans hadn't overlapped, all the loans were taken out after the previous loan had been repaid, which means Mr H's largest weekly repayment was £28 – when loan 4 was granted.

I've therefore concluded, given the manner in which Mr H took the loans and how they were repaid that his actions wouldn't have given Valleys any concerns about the affordability of the loans or any prompts to have conducted further checks.

I would add that all the loan applications appear to be paper based and completed with a pen. But loan 3 appears to have been completed on a computer or a tablet, I'm not sure why this is the case, but in any event, it doesn't detract from the fact the information given – at least about the income was correct.

Given the loan values, how they were repaid and the checks carried out by Valleys, I do think the checks it carried out went far enough and I don't yet think it had reached the stage where it needed to do any more before it lent to Mr H. The checks also demonstrated to Valleys that Mr H was likely in a position to afford his repayments.

I've also thought about what Mr H has said in regards to Valleys manipulating the income and expenditure details. I know from the checks that the weekly income figures noted on the application are broadly accurate from a review of the bank statements.

I of course can't discount that some or all of Mr H's declared outgoings may not have been accurate. But Valleys could only make its decision based on the information that it collected and was told about. And for these loans, I'm satisfied Valleys carried out proportionate checks which showed that Mr H would be able to afford his repayments.

I am sorry to hear about Mr H's financial difficulties and that he was vulnerable because he was gambling, but that information doesn't appear to have been disclosed to Valleys when the loans were granted. As such, I wouldn't have expected Valleys to have been aware of it and therefore taken it into account while assessing the affordability of each of these loans.

Taking everything into account, I am not upholding Mr H's complaint about loans 2 - 4.

### **Other considerations**

I've considered the testimony given to the Financial Ombudsman about how a loan was granted to him while he was at a casino and so Valleys ought to have understood Mr H was using this lending for unsustainable spending. No further information has been given by Mr H about his loan application, such as - which loan it related to and the context as to how this happened.

Valleys has said that all the loan applications were completed at Mr H's home and the agent had no reason to doubt that Mr H wasn't using the loans for anything other than the purpose noted within the applications – such as for a one-off purchase or for Christmas presents.

My role is come to an independent review of the circumstances and then recommended compensation that I may consider to be fair and reasonable. However, what I can't do is fine or punish Valleys nor can I call or cross examine witnesses. Here, I have both parties saying the antithesis of each other.

Valleys telephone call notes, which it provided do suggest that at least initially when the complaint was made Mr H was happy with the actions of the agent and the collections – although I do accept that isn't definite evidence that the meeting at the casino didn't happen. It's merely further context to suggest at least at the point the complaint was made, Mr H didn't perceive there to be a problem.

However, having looked at all of the evidence that is available to me and thinking about my role, I've not quite seen enough to suggest that Valleys was aware Mr H may have been

taking the loans to spend on gambling nor that anything other than the normal loan application process was followed. I therefore can't uphold this element of Mr H's complaint.

I appreciate Mr H will be disappointed by the decision I've reached here, but I do hope he understands why I have reached the outcome that I have.

### **Loan 5 – 8**

Valleys has accepted in the final response letter and as well from what the investigator said that these loans ought to not have been provided to Mr H. And it outlined in the final response (as well as in the investigator's assessment) about the steps it would take to put things right for him.

And the steps that Valleys has agreed to take, are arguably greater than the Financial Ombudsman would've recommended because Valleys has agreed to write off capital that is legitimately owed for loans 7 and 8 and in the most recent calculations this works out to be around £142 that Valleys will write off and not expect Mr H to pay.

As Valleys has accepted these loans ought to not have been provided and has offered compensation to Mr H there is no need for me to investigate whether these loans were correctly provided. However, for completeness, I've outlined below what Valleys has already agreed to do in order to put things right for Mr H.

### **Putting things right**

For completeness, I've outlined what Valleys should do, and what it has already agreed to do in order to put things right for Mr H in relation to loans 5 – 8.

- A. Valleys should add together the total of the repayments made by Mr H towards interest, fees and charges on all upheld loans without an outstanding balance.
- B. Valleys should calculate 8% simple interest\* on the individual payments made by Mr H which were considered as part of "A", calculated from the date Mr H originally made the payments, to the date the complaint is settled.
- C. Valleys should remove all interest, fees and charges from the balances of loans 7 and 8, and treat any repayments made by Mr H as though they had been repayments of the principal towards them. If this results in Mr H having made overpayments then Valleys should calculate a refund sum for 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.
- D. If there are still outstanding balances then the amounts calculated in "A" and "B" can be used to repay any balance remaining on loans 7 and 8. If this results in a surplus, then the surplus should be paid to Mr H although Valleys has said an outstanding balance will still likely be owed. So, Valleys should then do what it has agreed to do and write off any outstanding balance that it is still owed.
- E. As it has already agreed to do, Valleys should remove loans 5, 6, 7 and 8 entirely from Mr H's credit file.

\*HM Revenue & Customs requires Valleys to deduct tax from this interest. Valleys should give Mr H a certificate showing how much tax has been deducted, if he asks for one.

### **My final decision**

For the reasons outlined above, I am upholding Mr H's complaint in part.

Valleys Finance Limited should put things right for Mr H as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 25 April 2024.

Robert Walker  
**Ombudsman**