

The complaint

Ms K, through a representative, says Oakbrook Finance Limited lent to her irresponsibly.

What happened

Ms K took out two loans from Oakbrook Finance. A summary of her borrowing follows, Ms K settled loan 1 early in September 2021:

loan	taken out	value, £	term in months	monthly repayment, £
1	23/01/2021	1,500	24	98.15
2	05/11/2021	2,000	26	109.59

She says Oakbrook Finance failed to conduct proportionate checks and should have done more prior to lending to her. She went on to have financial difficulties.

Oakbrook Finance says it carried out comprehensive checks and there were no signs the loans would not be affordable for Ms K.

Our investigator did not uphold Ms K's complaint. She said the checks were proportionate for loan 1 and showed the loan to be affordable. For loan 2, whilst she thought better checks should have been carried out, she did not think they ought to have changed the lending decision.

Ms K disagreed with this assessment. She said surely the amount she was gambling prior to loan 2 must be taken into account.

I reached a different conclusion to the investigator so I issued a provisional decision. An extract follows and forms part of this final decision. I asked both parties to send any comments by 15 May 2024.

Extract from my provisional decision

Oakbrook Finance has provided evidence to show that each time before lending it asked for some information from Ms K. It asked for her monthly income and verified this using open banking data at the time of loan 1 and credit account turnover at the time of loan 2. It estimated her outgoings using national statistics. It carried out credit checks to understand her credit history and her existing monthly credit commitments. It no longer has a copy of the credit checks but has shared the key data from them. Based on these checks Oakbrook Finance thought it was fair to lend.

I will comment on each application in turn.

Loan 1

I think these checks were proportionate given the term and value of the loan and the monthly

repayments in relation to Ms K's income. And I also think Oakbrook Finance made a fair lending decision based on the information it gathered. I'll explain why.

It verified Ms K's monthly income at £1,443.16 and calculated her outgoings (housing and living costs plus existing credit commitments) to be £970.78. She had existing debt of £3,430 that was well managed. There was some adverse historic data but the most recent default was 35 months ago and Ms K was repaying the balance so I do not see this was a reason not to lend. Overall, I agree that the checks showed Ms K would most likely be able to sustainably repay this loan.

It follows I do not think Oakbrook Finance was wrong to give loan 1 to Ms K.

Loan 2

I am not persuaded the checks were proportionate this time. Ms K was returning to borrow only two months after early settling loan 1 and the credit check showed she had taken out eight new credit agreements since she opened loan 1, just nine months ago. So I think Oakbrook Finance ought to have reacted to this information, and carried out a fuller financial review to get the assurances it needed that Ms K was not under any financial strain.

In cases like this we review the bank statements from the three months prior to application. I am not saying Oakbrook Finance had to do exactly this but it is a reliable way for me to understand what better checks would most likely have shown.

In this case I find that Oakbrook Finance, as a responsible lender, would most likely not have lent to Ms K had it carried out proportionate checks. I say this as the statements show significant financial instability – in the statement month before Ms K applied for the loan she spent more than her salary on gambling transactions. There has been discussion between Ms K and the investigator about the nature of some of these transactions, but as they have the code CD 8222 in the narrative and this typically refers to merchants in the 'betting/gambling' category I think it is fair to conclude they were gambling transactions. From this information Oakbrook Finance would have realised that there was a high risk that lending to Ms K would most likely cause her financial detriment.

It follows I think Oakbrook Finance was wrong to give loan 2 to Ms K.

I then set out what Oakbrook Finance would need to do to put things right.

Both parties responded by the deadline given. Oakbrook Finance said it had nothing to add and Ms K said she accepted the conclusion that loan 2 should be upheld.

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 unaffordable/irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website. As neither party submitted any new information I have no reason to change the findings or outcome in my provisional decision.

It follows, for the reasons set out above I think Oakbrook Finance was wrong to give loan 2 to Ms K.

Putting things right for loan 2

It's reasonable for Ms K to repay the capital amount that she borrowed. But she has paid interest and charges on a loan that shouldn't have been given to her. So she has lost out and Oakbrook Finance needs to put things right.

It will have to:

- Remove all interest, fees and charges on the loan and treat all the payments Ms K made as payments towards the capital.
- If reworking Ms K's loan account results in her having effectively made payments above the original capital borrowed, then Oakbrook Finance should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement*.
- If reworking Ms K's loan account results in an outstanding capital balance, Oakbrook Finance should try to agree an affordable repayment plan with Ms K.
- Remove any adverse information recorded on Ms K's credit file in relation to the loan once any outstanding capital balance has been repaid.

*HM Revenue & Customs requires Oakbrook Finance to deduct tax from this interest. Oakbrook Finance should give Ms K a certificate showing how much tax it's deducted, if she asks for one. If it intends to apply the refund to reduce an outstanding capital balance it must do so after deducting the tax.

My final decision

I am upholding Ms K's complaint in part in relation to loan 2. Oakbrook Finance Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 13 June 2024.

Rebecca Connelley
Ombudsman