

The complaint

Mr D complains that East End Fair Finance Limited, trading as Fair Finance provided him with credit that he couldn't afford to repay.

What happened

Fair Finance approved a high interest loan of £400 for Mr D in July 2023. The loan was to be repaid at £58.50 over 12 months.

Mr D complained to Fair Finance and said they were wrong to provide credit as it wasn't affordable for him.

Fair Finance disagreed. They said that when they approved the loan, they used a combination of credit reference agency and self-reported information to assess the application. They noted that only one credit card account had exceeded its limit and that there was also an account that was over limit having had its credit limit reduced. They realised there were historic defaults but also identified that Mr D had been making payments towards those default amounts. Overall, they thought that the checks they had done were reasonable and proportionate and that they didn't suggest Mr D would have any difficulty affording repayment of the credit they advanced to him.

Our investigator didn't agree. She thought the checks Fair Finance had completed were reasonable and proportionate, but she thought the information they had gathered should have suggested to them that he was unlikely to be able to afford repayments.

As Fair Finance didn't respond the complaint has been referred to me, an ombudsman, for a final 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.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website. I've had this approach in mind when considering what's fair and reasonable in the circumstances of this complaint.

I think Fair Finance completed reasonable and proportionate checks, but I think the information they gathered suggested it was unlikely Mr D would be able to afford to sustainably make payments towards the loan they were providing.

At the time of application, the information gathered showed:

- Mr D was using all available credit on his three credit cards, and one had recently been over limit for a couple of months.
- Another account had had its credit limit reduced and had also been over limit.
- He was regularly borrowing from high-cost lenders.
- Several accounts had, relatively recently, been in arrangements to pay.

- There was evidence Mr D had been receiving salary advances.
- Ample disposable income was declared in the income and expenditure analysis and that would bring in to question the accuracy of that analysis. Had Mr D had that much disposable income it would seem a loan of £400 wouldn't be necessary.
- There were several historic defaults showing on his credit file. While payments had been made against most of them, the payments, in many cases were little more than token payments and one defaulted account with a balance of £1,321 hadn't received any payment since 2018.

So, I think the evidence Fair Finance had gathered suggested it would be increasing Mr D's indebtedness in a way that was unsustainable, and I think Fair Finance were, therefore, irresponsible to provide the loan.

Putting things right

As I don't think Fair Finance should have approved the loan, I don't think it's fair for it to charge any interest or charges. However, Mr D has had the benefit of the capital he lent so I think he should pay that back. Therefore, East End Fair Finance Limited should:

- Deduct the repayments Mr D made from the amount he was lent.
- If this results in Mr D having paid more than he received, any overpayments should be refunded along with 8% simple interest* (calculated from the date the overpayments were made until the date of settlement).
- If any capital balance remains outstanding, then Fair Finance should attempt to arrange an affordable repayment plan with Mr D.
- Remove any negative information they may have recorded on Mr D's credit file relating to the loan once any outstanding balance has been repaid.

*HM Revenue & Customs may require the business to take off tax from this interest. If it does, the business must give the consumer a certificate showing how much tax it's taken off if they ask for one.

My final decision

I uphold this complaint and direct East End Fair Finance Limited to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 23 August 2024.

Phillip McMahon
Ombudsman