

Complaint

Mr C has complained about personal loans Oakbrook Finance Limited (trading as “Likely Loans”) provided to him. He says that these loans were unaffordable and shouldn’t have been provided.

Mr C is being assisted in his complaint by a claims management company (“CMC”).

Background

Likely Loans provided Mr C with a first loan for £1,000.00 in February 2018. The loan had an APR of 89.9% and a term of 12 months. The total amount to be repaid of £1,391.52 was due to be repaid in 12 repayments of £115.96. Mr C repaid this loan early in August 2018 with some of the proceeds from loan 2.

Loan 2 was for a total of £1,679.16. As explained, this loan was provided in August 2018. £579.16 of these funds went towards repaying the outstanding balance which remained on loan 1.

Loan 2 had an APR of 89.9% and a term of 18 months. This meant that the total amount to be repaid of £2,685.42, which included interest, fees and charges of £1,006.26, was due to be repaid in 18 monthly instalments of £149.19.

One of our investigators reviewed what Mr C and Likely Loans had told us. And he thought that Likely Loans hadn’t done anything wrong or treated Mr C unfairly when providing him with either of these loans. So he didn’t recommend that Mr C’s complaint be upheld.

The CMC, on behalf of Mr C, disagreed with our investigator’s assessment and asked for an ombudsman to look at the complaint.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Mr C’s complaint.

Having carefully considered everything, I’ve not been persuaded to uphold Mr C’s complaint. I’ll explain why in a little more detail.

Likely Loans needed to make sure that it didn’t lend irresponsibly. In practice, what this means is Likely Loans needed to carry out proportionate checks to be able to understand whether Mr C could afford to repay before providing him with his loans.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less

thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

Likely Loans says it agreed to Mr C's applications after he provided details of his monthly income and some information on his expenditure. It says it cross-checked this against information on a credit search it carried out. In its view, all of this information showed Mr C could afford to make the repayments he was committing to. On the other hand, the CMC, on Mr C's behalf, has said he should never have been provided with these loans.

I've carefully thought about what the CMC, on Mr C's behalf, and Likely Loans have said.

The first thing for me to say is that this wasn't simply a case of Likely Loans accepting over-optimistic declarations of Mr C's monthly disposable income at face value. Likely Loans' credit searches did show that Mr C had some existing debts. But these weren't excessive and at the time of the applications, at least, they were reasonably managed. Mr C didn't have any significant adverse information such as defaulted accounts or county court judgments ("CCJ") recorded against him.

The CMC says it isn't satisfied by the credit search which Likely Loans carried out because it knows, as a result of Mr C's full credit file, that Mr C took out high-cost credit in the lead up to loan 1 and in the period between loan 1 and 2. I've seen what the CMC has said but without wishing to be blunt, it isn't necessary for a lender to carry out credit searches to the satisfaction of a CMC. What is important is whether I am satisfied that Likely Loans had enough to make a reasonable decision on lending.

I think it's probably worth explaining that a lender will never have a credit search with information as detailed as a customer would receive should they request a copy of their credit file. Nonetheless, Likely Loans was entitled to rely on the information that it did have even if this was less detailed than information which Mr C himself may have been able to obtain. And I'm satisfied that the checks Likely Loans carried out showed that Mr C had low active balances and that he had no defaulted accounts or CCJs recorded against him.

As this is the case, I think that there wasn't anything that was obviously inconsistent or difficult to reconcile with the rest of information that it had gathered, or anything else to call into question that the loan payments may not have been affordable for Mr C, in the way that the information suggested that they were.

For the sake of completeness, I would also add that even if Likely Loans had been aware of the high-cost loans that the CMC has referred to, I don't think that this in itself would have meant that Mr C shouldn't have been lent to. At the absolute most this would have seen me expect Likely Loans to have found out more about Mr C's actual living expenses. And I don't think that doing this would, in any event, have made a difference to its decision.

I say this because the bank statements show me that he had enough funds to make the monthly loan payments once his committed non-discretionary expenditure was added to the active credit commitments and then deducted from his income. I accept that Mr C's actual circumstances at the time may have been worse than what the information about his living costs shows. Having looked at the statements, I have my suspicions over why the loans may have proved unaffordable.

I also accept that if Likely Loans had known about this it's possible, but by no means certain, that it may have reached a different decision on providing these loans. But the truth is, given the circumstances here and what, at the absolute most, Likely Loans could reasonably be expected to find out, I don't think that reasonable and proportionate checks would have extended into obtaining bank statements for Mr C's accounts – especially as bank statements weren't the only way that Likely Loans could find out about Mr C's living expenses in the first place. And any checks certainly wouldn't have gone into the level of granularity required to discover Mr C's additional spending.

I've also kept in mind that Likely Loans provided a second loan to Mr C and that sometimes repeat borrowing in itself can be an indication of difficulty. But while loan 2 was for a higher amount than loan 1, it consolidated what Mr C already owed into this amount. Furthermore, Mr C was only ever scheduled to be indebted for a total period of 24 months, which I would not consider to be excessive bearing in mind he could have taken a loan for 36 months at the outset.

So while the pattern of lending here has seen me take a closer look at the individual applications, I'm satisfied that it wasn't unfair for Likely Loans to have provided loan 2 to Mr C in the circumstances that it did here.

In reaching my conclusions, I've also considered whether the lending relationship between Likely Loans and Mr C might have been unfair to Mr C under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Likely Loans irresponsibly lent to Mr C or otherwise treated him unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here. So I'm not upholding this complaint.

I appreciate this will be very disappointing for Mr C. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 26 August 2024.

Jeshen Narayanan
Ombudsman