

Complaint

Mr M complains that Lendable Ltd (“Lendable”) irresponsibly lent to him.

Background

This complaint is about the third of three loans which Mr M had with Lendable. Mr M has already been compensated for his first two loans and this complaint is only looking at the third loan, which Lendable provided to him in September 2023.

Lendable provided Mr M with a loan for £2,500.00 in September 2023. This loan was due to be repaid in 23 monthly instalments of £134.64 and a final instalment of £135.38. One of our investigators reviewed what Mr M and Lendable had told us. And he thought that Lendable hadn’t done anything wrong or treated Mr M unfairly. So he didn’t recommend that Mr M’s complaint be upheld.

Mr M disagreed and asked for an ombudsman to look at his complaint.

My provisional decision of 29 July 2024

I issued a provisional decision – on 29 July 2024 - setting out why I was intending to uphold Mr M’s complaint.

In summary, I was intending to uphold Mr M’s complaint as I thought that reasonable and proportionate checks would more likely than not have shown Lendable that this loan wasn’t affordable for him and it therefore shouldn’t have lent.

Responses to my provisional decision

Mr M confirmed his acceptance of my provisional decision and said that he didn’t have anything further to provide me with for consideration.

Lendable responded also confirming that it accepted my provisional decision and didn’t have anything further to add.

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 M’s complaint.

Having carefully considered everything, including the responses to my provisional decision, I’m still upholding Mr M’s complaint. I’ll explain why in a little more detail.

Lendable needed to make sure it didn't lend irresponsibly. In practice, what this means is Lendable needed to carry out proportionate checks to be able to understand whether Mr M could afford to repay any credit it provided.

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.

Lendable has said that its checks it carried out before providing this loan were reasonable and proportionate. But I think that it is making this argument in isolation and without taking into account that this was the third loan that it provided to Mr M.

Indeed, Mr M hadn't yet repaid loan 2 and was being provided with a third loan. From what I can see he would have to make repayments to both loan 2 and loan 3 for a while. So while the monthly repayments for this loan may have been around £135, Mr M actually had to pay Lendable around £250 a month until loan 2 was repaid. I would have expected Lendable to have taken this into account in the checks it carried out for loan 3.

Furthermore, it is my understanding that the checks for loans 1 and 2 saw Lendable obtain details of Mr M's account transactions, on his main bank account, as a result of open banking data it had access to. It is my understanding that it accepts that it ought to have taken into account the content of this data, but failed to, and this is the reason why it upheld the complaint about loans 1 and 2.

However, despite this being Mr M's third loan and him having yet to repay loan 2, I can't see that the same open banking information was obtained from Mr M. It is odd to me that Lendable would have chosen to reduce the level of checks it carried out, even though it was now repeat lending to Mr M and it was lending him close to the combined amount it lent for loans 1 and 2.

As Lendable carried out lesser checks that did it for loans 1 and 2 despite now repeat lending to him and lending him a higher amount, I'm satisfied that it failed to carry out reasonable and proportionate checks before providing loan 3.

I think that if Lendable had carried out further checks before providing loan 3, it is more likely than not that it would have seen that Mr M's position was similar to what it was at the time it provided loans 1 and 2, which it accepts shouldn't have been provided to him. Bearing all of this in mind, I'm satisfied that reasonable and proportionate checks would more likely than not have demonstrated that Mr M would not have been able to make the repayments to loan 3 without borrowing further and/or suffering undue difficulty.

In these circumstances, I find that reasonable and proportionate checks would more likely than not have alerted Lendable to the fact that Mr M was in no sort of position to make the payments to loan 3 without suffering significant adverse consequences.

As Lendable provided Mr M with loan 3, notwithstanding this, I'm satisfied that it failed to act fairly and reasonably towards him.

Mr M has ended up paying and is still being expected to pay interest, fees and charges on a loan he shouldn't have been provided with. So I'm satisfied that Mr M lost out because of what Lendable did wrong and that it should now put things right.

In reaching my conclusion, I've also considered whether the lending relationship between Lendable and Mr M might have been unfair to Mr M under section 140A of the Consumer Credit Act 1974.

However, I'm satisfied that the direction which I set out in the section below will result in fair compensation for Mr M given the circumstances of his complaint. And I'm satisfied, based on what I've seen so far, that no additional award would be appropriate in this case.

Fair compensation – what Lendable needs to do to put things right for Mr M

Having thought about everything, I'm satisfied that Lendable should put things right for Mr M by:

- removing all interest, fees and charges applied to loan 3 from the outset. The payments Mr M made should be deducted from the new starting balance – the £2,500.00 originally lent. If Mr M has already repaid more than £2,500.00 then Lendable should treat any extra as overpayments. And any overpayments should be refunded to Mr M;
- adding interest at 8% per year simple on any overpayments, if any, from the date they were made by Mr M to the date of settlement†
- if no outstanding balance remains after all adjustments have been made, all adverse information Lendable recorded about loan 3 should be removed from Mr M's credit file.

† HM Revenue & Customs requires Lendable to take off tax from this interest. Lendable must give Mr M a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained above and in my provisional decision of 29 July 2024, I'm upholding Mr M's complaint. Lendable Ltd should put things right in the way I've directed it to do so above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 2 September 2024.

Jeshen Narayanan
Ombudsman