DRN-4942076

The complaint

Mr D says Lendable Ltd irresponsibly lent to him.

What happened

Mr D took out a loan for £5,000 over 18 months in March 2023. There was a loan fee of £187, the monthly repayments were £375.07 and the total repayable was £6,761.65.

Mr D says his income wasn't enough to afford this loan. He was using over 95 percent of his credit card limits, had two defaults and over £30,000 of debt.

Lendable says it carried out adequate checks which showed the loan would be affordable.

Our investigator did not uphold Mr D's complaint. She said whilst Lendable's checks were not proportionate, it could fairly have made the same decision had it completed better checks.

Mr D disagreed and asked for an ombudsman's review.

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 submit any comments by 29 July 2024.

Extract from my provisional decision

Having carefully considered everything, I've decided to uphold Mr D's complaint. I'll explain why.

Lendable needed to make sure that 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 D could afford to repay before providing this loan.

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 says it agreed to Mr D's application after he provided details of his monthly income and some information on his housing costs. It says used open banking data and current account turnover from one of the credit reference agencies to verify his declarations. It used national statistics to estimate his living costs. It carried out a credit search to understand his existing credit commitments and credit history. It asked about the purpose of *the loan which was debt consolidation. It concluded from all of this information that Mr D could to afford to make the repayments he was committing to.*

On the other hand, Mr D has said he did not have the income to afford the loan and his credit file showed he was struggling financially.

I've carefully thought about what Mr D and Lendable have said.

Lendable's income and expenditure assessment showed Mr D had monthly disposable income of around £850. Its credit check showed Mr D had £18,384 of debt. His credit cards were 95% utilised and he had two defaults from 2019 and 2020. In these circumstances I think Lendable ought to have carried out a fuller financial review to get the assurances it needed that Mr D's finances were now stable and that he could afford to repay this loan without suffering any financial harm.

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

And I find it ought to have made a different lending decision had it collected a proportionate level of information.

The statements show some of the typical signs of financial strain – I note returned direct debits and the use of payday loans. They also show Mr D's income from salary (approx. £2,200) was around £600 less than the income Lendable relied on (£2,832). Whilst there were other incomings, I cannot see they were guaranteed or regular, such as benefits for example. So including that income presented a level of risk and meant Mr D had a much lower level of disposable income than Lendable assumed.

I accept the loan was for debt consolidation – but given the value, it wouldn't clear all of Mr D's £6,008 credit card debt meaning he would need to leave an account open, increasing the risk he would run up balances again. Or, multiple accounts if he intended to repay his more expensive payday loan debt first. I think such a scenario meant Lendable did not have the assurances it needed that its lending would not likely cause financial harm.

Lendable already knew that Mr D had defaulted on two loans accounts in 2019 and 2020. These accounts still carried unsettled balances of over £10,000 in total so whilst the adverse data was somewhat historic the debt was still being paid down and needed to be considered.

Overall, I am not satisfied it would have been right for Lendable to have approved the loan had it carried out a fuller financial review. Even if it included all income sources and could argue the loan was affordable on a pounds and pence basis, I cannot see it could argue it knew the loan would be repaid sustainably. I think fuller checks would have shown there was a high risk Mr D would either borrow to repay or suffer some other adverse financial consequence. I note he had problems making his repayments right from the start of the loan term.

It follows I think Lendable was wrong to give the loan to Mr D.
I then set out what Lendable would need to do to put things right.

Lendable replied to say it agreed with these findings. Mr D did not respond.

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

As neither party sent in any new information or comments for me to consider I have no reason to change the findings or conclusion in my provisional decision.

It follows for the reasons set out above I find Lendable was wrong to lend to Mr D.

Putting things right

It's reasonable for Mr D to repay the capital amount that he borrowed as he had the benefit of that money. But he shouldn't pay interest and charges on a loan that shouldn't have been given to him.

So Lendable should:

- Remove all interest, fees and charges on the loan and treat all the payments Mr D made as payments towards the capital.
- If reworking Mr D's loan account will result in him having effectively made payments above the original capital borrowed, then Lendable should refund this money to Mr D - 8% simple interest should be applied to the overpayments, from the date the overpayments would have arisen, to the date of settlement*.
-- If reworking Mr D's loan account means there remains an outstanding capital balance Lendable must work with Mr D to agree an affordable repayment plan.
- Remove any adverse information recorded on Mr D's credit file in relation to the loan once any capital balance is repaid.

*HM Revenue & Customs requires Lendable to deduct tax from this interest. Lendable should give Mr D a certificate showing how much tax it's deducted if he asks for one. If it intends to apply the refund to reduce an outstanding balance it must do so after deducting the tax.

I've also considered whether the relationship might have been unfair under Section140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed above results in fair compensation for Mr D in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

My final decision

I am upholding Mr D's complaint. Lendable Ltd must now put things right as 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 29 August 2024.

Rebecca Connelley
Ombudsman