

The complaint

Mr P complains that Lendable Ltd have irresponsibly lent to him.

What happened

Mr P was approved for a Lendable loan in June 2023 for £7,950 (with an additional £363 loan fee), with repayments of £268.41 a month. Mr P says it was irresponsible for Lendable to lend him this amount, as this was unaffordable for him, and he had only just taken out a Lendable loan months earlier. Mr P made a complaint to Lendable.

Lendable did not uphold Mr P's complaint about irresponsible lending, but they paid £50 compensation for not processing a Data Subject Access Request (DSAR), and for the delay in investigating his complaint. They said Mr P told them he was employed full time with income of £2,097 a month, which they were able to validate, and they concluded he had a sufficient healthy credit history. Mr P brought his complaint to our service.

Our investigator upheld Mr P's complaint. She said Lendable didn't conduct proportionate checks and they relied on an automated system for income verification. She said even in consideration of Mr P's declared income, his income was just enough for his debt commitments and not any additional living costs. She said an extra repayment of circa £260 would not be affordable for Mr P.

Lendable asked for an ombudsman to review the complaint. They said they had reviewed Mr P's bank statements and the statements showed more income than Mr P declared, so they didn't deem the loan was unaffordable for Mr P.

As my findings differed in some respects from our investigator's, I issued a provisional decision to give both parties the opportunity to consider things further. This is set out below:

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

Before agreeing to approve the credit available to Mr P, Lendable needed to make proportionate checks to determine whether the credit was affordable and sustainable for him. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. I've listed below what checks Lendable have done and whether I'm persuaded these checks were proportionate.

Acceptance for the Lendable personal loan – June 2023

I've looked at what checks Lendable said they did when initially approving Mr P's application. Lendable said they looked at information provided by a Credit Reference Agency (CRA) and information that Mr P had provided before approving his application.

I've reviewed the information on Mr P's application which is date stamped on 22 June 2023 at 12:46pm. So it does appear Lendable used the information Mr P provided to them on his new application, as opposed to them using the same information as his original application for his earlier loan with them. The information showed that Mr P had declared a net monthly income of £2,097 a month, which Lendable had been able to verify electronically through the CRA.

The credit checks showed that Mr P had no defaults being reported by the CRA they used for the account opening checks, and no County Court Judgements. The checks don't show any active arrears on any of the accounts Mr P had. So it does look like he was able to manage his debt well. He also was not utilising all of the credit available to him.

But that's not all Lendable's data showed. The data also showed that Mr P had outstanding unsecured loan balances of £16,514, and unsecured revolving balances (such as credit cards) of £5,508. So in total he had £22,022 of unsecured debt prior to Lendable approving his loan application. This was a high amount of debt compared to his annual net income he declared, which would be £2,097 x 12 = £25,164.

The information from the CRA shows that Mr P's credit commitments were approximately £1,868 a month. So given that Mr P's declared net monthly income was £2,097 a month, I'm persuaded that Lendable should have carried out further checks to ensure the lending would be affordable and sustainable for him.

There's no set way of how Lendable should have made further proportionate checks. One of the things they could have done was to contact Mr P to get an understanding of his outgoings and how he would be able to pay his living costs with an apparent small disposable income remaining. Or they could have asked for his bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for him.

Mr P has provided his bank statements for the three months leading up to the Lendable loan that they approved for him. Mr P's bank statements show that at times his income is higher than it is declared, and there is one month where it was lower than what it was declared. Mr P has told us that this was because he received a bonus at work for one month, and another month he worked overtime.

But I'm not persuaded that these income figures should have prompted further checks from Lendable. Mr P told them his income was £2,097 net a month. And even though one of these months was lower than this, it wouldn't be proportionate for Lendable to have reasonable cause to doubt what Mr P had told them, especially considering the other two months showed a higher income than what he declared.

Mr P's bank statements show credits to his account with a reference of "BILLS". So it would appear to Lendable that not only does Mr P often receive more salary than what he declared if they viewed his statement as part of a proportionate check, but that he also receives either £450 (3 April 2023) or £600 (28 April 2023 and 31 May 2023) towards his outgoings. Mr P was always in credit for the three month period, and it appears there were only three days in this entire period that his balance was lower than the £268.41 that his new loan repayment would be. His balance was often at high three figures or four figures.

Lendable have also said that Mr P had recorded debt consolidation as the purpose of this loan. So I would expect Mr P's monthly debt outgoings to reduce to a lower amount than what they were prior to the loan being took out if he was using this loan to pay off existing debt.

So although I'm not persuaded the checks Lendable carried out were proportionate, I'm persuaded that if they requested Mr P's bank statements as part of a proportionate check, then they would have seen no obvious signs of financial difficulty, and they would have still approved Mr P's loan. Based on the information Lendable had, and what Mr P's bank statements showed, it wouldn't have been proportionate for them to make any further checks after reviewing the bank statement. So I'm persuaded that Lendable made a fair lending decision in approving the loan for Mr P.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I can't conclude that Lendable lent irresponsibly to Mr P or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here. So it follows I don't intend to ask Lendable to do anything further."

I invited both parties to let me have any further submissions before I reached a final decision. Lendable accepted the provisional decision. Mr P did not accept the provisional decision. He made a number of points. In summary, he said his main concern is that the decision was made following an assessment of an unusual period where his income and therefore his disposable income was greater than usual – but not representative of his financial means or ability to pay across the whole loan term, should either overtime or family support stop.

Mr P said he ended up taking another loan of £1,800 with a third party in August 2023, due to his poor financial position, and he took on another job, working nightshifts at weekends to make ends meet as his overtime ceased. Mr P said although the provisional decision mentioned him receiving money for bills, the decision doesn't acknowledge that regular payments were being paid back throughout the period covered by the statements, and he was also paying money to other people during this time due to an accident.

Mr P said based on Lendable's minimum income validation check and the absence of request for further information from them he can't agree with the reasoning in the decision, as they would not have had full details of his income and they could only validate that his stated income was correct, and so only if they completed further checks, the discretionary and non-regular nature of the increased monthly pay would come to light.

Mr P said irrespective of what is speculated that might have happened had Lendable asked for his statements, they did not ask for them, and so the decision they made was irresponsible at that point despite the mitigation mentioned in the decision. He said having a good or poor credit history in this case is not relevant to the outcome of responsible lending as his complaint is that Lendable did not assess whether the loan was affordable – which despite his credit history, it was not.

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.

Firstly, I'm aware that I've only summarised Mr P's response to the provisional decision. And I'm not going to respond to every single point made by him. No discourtesy is intended by this. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point to be able to reach what I think is a fair outcome.

I'd like to thank Mr P for providing a detailed response to the provisional decision, and for providing further evidence. While I may not comment on everything he's sent us, I can assure him that I've looked at everything he's sent.

I've considered what Mr P has said about Lendable not requesting his statements, and because they didn't, the lending was irresponsible. But I can't agree that because Lendable didn't ask for statements that this automatically means the lending was unaffordable. I say this because the key thing here, is what proportionate checks would have shown. The application data showed that Mr P declared income of £2,097 a month.

So as this was verified with the CRA, it wouldn't be proportionate for Lendable to contact him and assume that part of the income he received was for an annual bonus if they had carried out further proportionate checks, and I'm not persuaded this would come to light. If Mr P's normal monthly income without overtime and an annual bonus was less than £2,097, it's not clear why this was entered as his income on his application form, unless he was giving them an average of what his monthly income was.

Although Mr P has told us about his bank statements showing an unusual period where his income and disposable income was greater than normal, based on the information on Mr P's bank statements, I'm not persuaded that Lendable ought to have been aware of this. And it wouldn't have been proportionate for them to carry out further checks if they had requested the bank statements as part of a proportionate check. They would not be required to request payslips when the bank statement shows salary crediting the account.

I'm sorry to hear about Mr P's financial situation with him having to work another job on the weekend, and him taking out another loan shortly after the Lendable loan. But as these were after the lending decision, I can't fairly say that this would be foreseeable to Lendable at the point of lending – even if they would have requested his bank statements as part of a proportionate check.

I've considered what Mr P has said about the provisional decision mentioning him receiving money for bills, but the decision doesn't acknowledge that regular payments were being paid back throughout the period covered by the statements, and he was also paying money to other people during this time due to an accident.

As I mentioned in the provisional decision "*Mr P's bank statements show credits to his account with a reference of "BILLS"*". While Mr P does make payments to this person at times, it is not immediately obvious based on an initial and a surname being shown on the credit, but when Mr P sends the money to the other person, this does not show on his statements in the same format.

Apart from money from bills, Mr P also received money from this individual with other references such as food, drink, lottery, paint etc. So it would appear the regular income he receives for the bills isn't a loan, and was for his bills, otherwise it would be reasonable to expect a different reference would be used to reflect the actual nature of the credit, in the same way the reference is changed for other money the person credits to Mr P's account.

When Mr P transfers the individual money, it is on an ad-hoc basis, and the reference shown is "*BESTIE*". So it wouldn't be apparent to a third party that this payment was paying back any money the other person had lent him, if this is what Mr P was doing here.

Although Mr P has told us about an accident meaning he pays other people due to the accident (I won't go into detail on the accident to protect Mr P's identity), the statements show three payments totalling £250 over three months with a reference that could relate to the accident. So based on the other information on Mr P's statement during this period, I'm not persuaded further checks would have been proportionate on this point.

I've considered what Mr P has said about having a good or poor credit history is not relevant to the outcome of responsible lending. But while it would not be the only factor to take into consideration, I am persuaded it would be a relevant consideration here.

I say this because somebody who has recently defaulted on a credit agreement or has a recent County Court Judgement registered against them, or has arrears on an account would show signs of financial difficulty as they couldn't keep up with their repayments when they were due. As I mentioned in the provisional decision "*the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history*". So I would expect lenders to take into account a borrowers credit history as part of proportionate checks.

If Mr P is currently struggling financially, I would urge him to contact Lendable to see what assistance they can give him. They should make Mr P aware of the impact any options would have on his credit file.

In summary, Mr P's response hasn't changed my view and my final decision and reasoning remains the same as in my provisional decision. If Mr P is disappointed, I hope he understands my reasons.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 18 November 2024.

Gregory Sloanes
Ombudsman