DRN-5101622

The complaint

Miss M complains that Lendable Ltd irresponsibly lent to her.

What happened

Lendable provided Miss M with a single loan in April 2021. The loan was for £5,000 with an APR of 46.88%. The loan was due to be repaid through 47 monthly repayments of £207.33, followed by a final monthly repayment of £198.74. The total amount to be repaid by the end of the loan term, including interest and fees, was £9,943.25.

Our investigator reviewed Miss M's complaint. But they didn't think Lendable had treated Miss M unfairly, and so they didn't recommend that the complaint be upheld. Miss M didn't agree with the investigator's findings. As a result, the complaint was passed to me to review afresh.

On 7 October 2024, I issued a provisional decision, in which I said:

The Financial Ombudsman Service has set out its general approach to complaints about irresponsible and unaffordable lending on its website. And, having taken this into account along with everything else I need to consider, I am minded to uphold this complaint.

Lendable needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Miss M could repay the loan repayments when they fell due and without the need to borrow further. These checks weren't prescriptive, but could take into account a number of different things such as how much was being lent, the repayment amounts and the consumer's income and expenditure.

So, in keeping with the information on the Financial Ombudsman Service's website, I think there are a number of overarching questions I need to consider when deciding a fair and reasonable outcome given the circumstances of this complaint:

1. Did Lendable carry out reasonable and proportionate checks to satisfy itself that Miss M was likely to have been able to repay the borrowing in a sustainable way?

> *i. If Lendable carried out such checks, did it lend to Miss M responsibly using the information it had?*
>
> *Or*
>
> *ii. If Lendable didn't carry out such checks, would appropriate checks have demonstrated that Miss M was unlikely to have been able to repay the borrowing in a sustainable way?*

2. If relevant, did Miss M lose out as a result of Lendable's decision to lend to her?

<u>*Did Lendable carry out reasonable and proportionate checks?*</u>

There are many factors that could be relevant when determining how detailed proportionate checks should have been. And while much will depend on the circumstances in question, the more obvious factors include – though aren't necessarily limited to:

> *• the type of credit Miss M was applying for along with the size, length and cost of the borrowing; and*
>
> *• Miss M's financial circumstances – which included her financial history and outlook along with her situation as it was, including signs of vulnerability and/or financial difficulty.*

And generally speaking, I think reasonable and proportionate checks ought to have been more thorough:

> *• the lower an applicant's income because it could be more difficult to make the repayments as a result;*
>
> *• the higher the amount repayable because it could be more difficult to meet a higher repayment, especially from a lower level of income; and*
>
> *• the longer the loan term, because the total cost of the credit was likely to have been greater given the longer time over which repayments have to be made.*

As a result, the circumstances in which it was reasonable to conclude that a less detailed affordability assessment was proportionate strike me as being more likely to be limited to applicants whose financial situation was stable and whose borrowing was relatively insignificant and short-lived – especially in the early stages of a lending relationship.

Prior to agreeing to lend, Miss M was asked to provide details of her income and employment status. Miss M declared that she was employed full-time and that her monthly income was £1,323. Lendable verified this information by obtaining payslips from five of the six weeks prior to the lending decision. Having done so, Lendable says it made a downward adjustment to Miss M's monthly income to £1,208.

In addition, Lendable carried out a credit search to understand Miss M's existing credit commitments. It has provided the results it received from the credit reference agency which showed Miss M had a total of 14 active accounts with a total indebtedness of £10,113. This check did not show Miss M had any recent County Court Judgements, defaults or delinquent accounts at the time of the application.

Lendable asked Miss M about the purpose of the loan which she said was for debt consolidation. Lendable says it performed an 'additional check' to determine how the loan in question could potentially reduce her existing credit commitments. This amounted to dividing the loan amount across the balances of any unsecured debt visible on Miss M's credit file, thereby reducing the balance of each account and recalculating the monthly repayments accordingly.

Finally, Lendable says as part of the application process, Miss M gave it access to her online banking which it used to understand her incomings and outgoings for the three months prior to the loan application date. Although it is worth noting that the information Lendable has provided about the results of this part of their affordability assessment is very limited – it appears to only show a handful of transactions across a two week period and, therefore, I don't think this helped Lendable gain any insight into Miss M's financial situation.

I acknowledge that this appears to have been Miss M's first loan with Lendable and, as such, I don't think there was any established pattern in her borrowing needs, at least from Lendable, at that stage. But I don't think Lendable's checks went far enough. I say that because:

- *The loan was for a term of four years and Lendable needed to be sure the repayments were sustainable for that period;*

- *Miss M's existing indebtedness of £10,113 was significant in relation to her annual income;*

- *Miss M was already committed to paying over 40% of her income on unsecured credit commitments;*

- *Lendable knew (from the payslips it obtained) that Miss M was paid weekly through an employment agency, which suggested her employment was possibly not permanent. In these circumstances I think it ought to have carried out a fuller financial review to make sure it understood more about the stability of Miss M's employment and any variation in income, as well as her actual monthly expenditure.*

- *Linked to the above, the information Lendable gathered to verify Miss M's income (five of the prior six weekly payslips) provided quite a narrow and fragmented picture of her income.*

- *Lendable hasn't shown me that it considered Miss M's living costs and other regular expenditure in any detail. I think this was something it needed to understand in order to make a fair lending decision.*

- *Miss M wasn't going to be able to clear all of her outstanding balances with this loan. And while this in itself doesn't mean that it was unreasonable to proceed with a consolidation loan, it's unclear to me how or what was going to be consolidated and more crucially how this loan, which was on disadvantageous terms, was going to reduce Miss M's outgoings going forward. So I don't think that it was reasonable for Lendable to accept the recorded loan purpose at face value in these circumstances, without a deeper review of Miss M's wider financial situation.*

Keeping in mind the loan term and amount, I think Lendable needed to do more to ensure it had a proper understanding of Miss M's overall financial situation to be satisfied she could afford the loan sustainably for the next four years. So, I'm not persuaded Lendable carried out reasonable and proportionate checks.

<u>Would the requisite checks have demonstrated that Miss M was unlikely to have been able to repay the borrowing in a sustainable way?</u>

It isn't possible to determine with certainty what such checks would have shown Lendable in practice as I don't know what checks it would have decided to carry out if it had its time again. As a result, what I'm considering here is the likelihood of reasonable and proportionate checks showing Lendable that Miss M would have been able to sustainably repay the borrowing in question when there were signs that suggested otherwise. And for that reason, it is necessary to now consider information that Lendable hadn't considered at the time.

Lendable could have obtained a deeper understanding of Miss M's financial circumstances by asking her for bank statements. Miss M has provided her bank statements for the three *months prior to the lending in question ("the Relevant Period"). I think a three-month period would have given Lendable sufficient insight had it requested bank statements.*

I acknowledge that something that I can now see from the information Miss M has provided wouldn't necessarily have been disclosed by whatever reasonable and proportionate checks Lendable might have decided to carry out. But, in the absence of anything else, I don't currently think it's unreasonable to rely on the information I've got when determining what Miss M's financial circumstances were likely to have been like before Lendable decided to lend to her.

The bank statements show Miss M's average monthly income during the Relevant Period excluding sporadic payments received from Miss M's family members and friends – was around £1,219. This is broadly in-line with the figure Lendable relied on when making its lending decision.

The bank statements also show Miss M's non-discretionary expenses[1] (excluding credit commitments) totalled around £819.22 a month. Adding the repayment for the loan in question, Miss M's expenditure increases to £1,026.55. Deducting this amount from Miss M's average regular income left Miss M with £192.45 to meet her other existing credit commitments.

I've taken into account that Lendable understood that the loan was intended for debt consolidation. But Lendable didn't have control over how Miss M used the loan as it paid the loan balance to her. And, even if Miss M did use the funds solely for debt consolidation, the loan amount would have covered less than half the value of Miss M's existing credit commitments – and almost certainly wouldn't have reduced her remaining credit commitments to below £192.45 per month. And, even if it did, Miss M wouldn't have been left with any additional funds to act as a buffer in case of unforeseen expenses.

So, while the loan was said to be for debt consolidation, as I find that further questions would have identified the loan to have been unaffordable even if the loan was used to repay other debts, I do not find that Lendable acted responsibly by providing the loan.

But putting all of this to one side, a review of Miss M's bank statements would have provided further indications that she was having problems managing her money. I say this because expenditure exceeded income in two of the three months of the Relevant Period and, in February 2021 (month 2 of the Relevant Period) Miss M saw the following Direct Debits returned due to insufficient funds:

T&W Council (council tax)	*£122*
Amigo Loans	*£97.58*
Scottish Power	*£247*

If Lendable had seen this information I think it would have given it cause for concern. After all, struggling to maintain payments towards important bills such as council tax and energy is indicative of someone who is having problems managing their money. Indeed, it appears that Miss M entered into a payment arrangement with T&W Collections Department for her council tax payments following the returned Direct Debit in Month 2 of the Relevant Period. I say this because in Month 3 of the Relevant Period, the regular payment of £122 to T&W Council is replaced by much smaller payments to Telford CD. This would have put Lendable on notice that Miss M may have difficulty sustainably repaying the loan in question.

[1] This includes Direct Debits unrelated to credit commitments (such as rent, energy, council tax, insurances etc.), as well as the average expenditure on groceries and travel. I have deducted regular income for items such as rent contribution from family and friends from this figure.

What's more, throughout the Relevant Period Miss M was persistently reliant on her overdraft, often using the vast majority of it and never bringing the account into credit. She was incurring frequent daily fees as a result. So had Lendable completed proportionate checks I think it would have realised there was a risk Miss M would be unable to sustainably repay its loan – that is without borrowing to repay, or without suffering some other adverse financial consequence. Miss M was clearly having problems managing her money at the time. And whilst this loan was to consolidate some of her debt, her financial instability was evidently such that it was irresponsible to further extend her indebtedness.

Looking at things in the round I think, had Lendable completed what I consider would've been a proportionate check, it would likely have seen the signs that Miss M was already in financial difficulty and, despite what its affordability assessment might have shown, realised that Miss M was unlikely to be able to afford its loan.

It follows I currently think Lendable was wrong to give the loan to Miss M.

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

However, I'm satisfied that what I'm planning to direct Lendable to do results in fair compensation for Miss M given the overall circumstances of her complaint. For the reasons I've explained, I'm also satisfied that, based on what I've seen, no additional award is appropriate in this case.

I gave both parties an opportunity to respond to my provisional decision.

Lendable accepted my provisional decision. Miss M did not respond.

The deadline to provide further submissions was 21 October 2024. As that deadline has now lapsed, I've reviewed the complaint again.

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.

Having reconsidered the available evidence in this complaint – and in the absence of any further submissions or evidence from either party - I see no reason to depart from the findings set out in my provisional decision.

This being that I think Lendable acted unfairly by agreeing to lend to Miss M.

It follows that I uphold this complaint for the reasons set out in my provisional decision.

Putting things right

It's reasonable for Miss M to have repaid the capital amount that she borrowed as she had the benefit of that money. But she has paid interest and charges on a loan that shouldn't have been given to her. So, she has lost out and Lendable must put things right.

I am unclear whether the loan debt is still outstanding. If it is, and Lendable has sold the outstanding debt, it should buy these back if able and then take the following steps. If it's not able to buy the debt back, then it should liaise with the new debt owner to achieve the results outlined below.

Lendable should:

- Refund all the interest, charges and fees (including loan fees) Miss M paid on the loan.

- If reworking Miss M’s loan account results in her having effectively made payments above the original capital borrowed, then Lendable should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement*.

- If reworking Miss M’s loan account results in an outstanding capital balance, Lendable should try to agree an affordable repayment plan with Miss M.

- Remove any adverse information recorded on Miss M’s credit file in relation to the loan, once any outstanding capital balance is repaid.

*HM Revenue & Customs requires Lendable to deduct tax from this interest. Lendable should give Miss M a certificate showing how much tax it’s deducted, if she asks for one.

My final decision

For the reasons I’ve explained, my final decision is that I uphold Miss M’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss M to accept or reject my decision before 21 November 2024.

Ross Phillips
Ombudsman