

Complaint

Mr P has complained about a loan Oakbrook Finance Limited (trading as “Finio Loans”) provided to him. He says the loan was unaffordable given his circumstances at the time and so shouldn’t have been provided.

Background

Finio Loans provided Mr P with a loan for £1,000.00 in September 2022. This loan was due to be repaid in 24 monthly instalments of £59.28. One of our investigators reviewed what Mr P and Finio Loans had told us. And he didn’t recommend that Mr P’s complaint be upheld.

Mr P disagreed and asked for an ombudsman to look at his 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 P’s complaint.

Having carefully considered everything, I’ve not been persuaded to uphold Mr P’s complaint. I’ll explain why that is the case in a bit more detail.

Finio Loans needed to make sure that it didn’t lend irresponsibly. In practice, what this means is Finio Loans needed to carry out proportionate checks to be able to understand whether Mr P 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.

Finio Loans says it agreed to Mr P’s application 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 and all of this information showed Mr P could afford to make the repayments he was committing to. On the other hand, Mr P has said he was in financial difficulty.

I’ve carefully thought about what Mr P and Finio Loans have said.

The first thing for me to say is that Finio Loans didn't just simply accept what Mr P had told it. It cross checked what Mr P declared for his income against information from credit reference agencies on the amount of funds going into his main bank account each month. It also carried out credit searches which showed that Mr P's unsecured credit commitments weren't excessive in comparison to his validated income either.

I accept that Mr P appears to be suggesting that his actual circumstances may not have been fully reflected either in the information he provided, or the information Finio Loans obtained. I've noted that he's said that lenders can sometimes miss signs of financial difficulty and that his position was worse than it appeared because he was gambling.

I'm sorry to hear about what Mr P has told us. But the amount of information a lender can reasonably be expected to gather prior to lending to a customer will be based on the overall circumstances. In Mr P's particular case, given the amount lent as well as the amount of the monthly payments I'm satisfied that the information gathered was sufficient.

Furthermore, the lack of obvious indicators of recent financial difficulty in the information Finio Loans did obtain (there was an account which Mr P had previously defaulted on but this was from five years prior to this application) and the rest of the information obtained suggested the loan payments were affordable, I don't think that it was unreasonable for Finio Loans to have lent.

For the sake of completeness, I'd also add that at best, even if I were to accept that further checks were necessary, which I'm not necessarily persuaded is the case here, any such checks would only have gone as far as finding out more about Mr P's regular living costs. I don't think that obtaining bank statements was the only way that Finio Loans could have done this.

As this is the case, I don't think that Finio Loans could reasonably be expected to know about Mr P's gambling or the effect that this may have had on his ability to repay this loan. In these circumstances, I don't think that Finio loans did anything wrong when deciding to lend to Mr P - it carried out proportionate checks and reasonably relied on what it found out which suggested the repayments were affordable.

I know that Mr P has queried how it is possible for us not to uphold this complaint when other complaints of his, about other lenders, ended up being upheld by the lender. I can understand why Mr P might find it strange that he's received a different outcome on this complaint which he perceives to be materially the same.

But it's important for me to explain that we consider complaints on an individual basis and looking at the individual circumstances. As I've already explained, what will constitute a proportionate check will very much depend on the particular circumstances of the individual application. A proportionate check, even for the same customer, could look different for different applications.

Furthermore, I'm not bound by the outcomes reached on different cases whether the outcome concerned was reached by another casehandler here or by a lender itself. Ultimately, I'm required to consider the facts of a case and reach my own conclusion on what's fair and reasonable in all the circumstances.

So the outcomes Mr P has referred to receiving on other cases cannot and do not bind me into reaching the same conclusion on this case. That said, consistency is important and with a view to providing some clarity and reassurance to Mr P, it might help for me to explain that there are some key differences between this complaint and the only one of Mr P's upheld complaints that I can see was referred to us.

Having looked at Mr P's other case, it's clear that he was advanced a loan for a much higher amount than he was advanced by Finio Loans. This also meant that Mr P had much higher monthly payments on that loan and this will have affected the level of checks that that lender was reasonably expected to carry out at the time and what it was expected to have known about Mr P. In this case, I've already explained why I don't think that proportionate checks would have shown that this loan for £1,000.00 was unaffordable for Mr P.

As this is the case, while I'm not required to replicate the outcomes reached on other cases, nonetheless I don't consider that my answer here is incompatible or inconsistent with the ones Mr P has referred to receiving on other cases, notwithstanding the differing outcomes.

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

However, for the reasons I've explained, I don't think Finio Loans irresponsibly lent to Mr P 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 overall and having considered everything, I don't think that Finio Loans treated Mr P unfairly or unreasonably when providing him with his loan. And I'm not upholding Mr P's complaint. I appreciate this is likely to be very disappointing for Mr P. 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 P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 4 February 2025.

Jeshen Narayanan
Ombudsman