

## **Complaint**

Mr B complains that Fairscore Ltd (trading as “Updraft”) irresponsibly lent to him. He’s said that his linked bank account would have shown large transactions leaving his account to offshore gambling companies so the loan was unaffordable and his application should have been rejected.

## **Background**

In March 2022, Updraft provided Mr B with a loan for £11,000.00. The loan had an APR of 8.9% as well as interest of £4,067.20. This meant that the total amount to be repaid of £15,067.20 was due to be repaid in 60 monthly instalments of £251.12. I understand that Mr B settled this loan in full in January 2023.

Mr B’s complaint was considered by one of our investigators. He concluded that this loan was unaffordable for Mr B and so Updraft shouldn’t have provided it to him. So he recommended that Mr B’s complaint was upheld.

Updraft disagreed with the investigator’s assessment. It asked for an ombudsman’s review of the case as per the next stage of our dispute resolution process.

## **My provisional decision of 11 December 2024**

I issued a provisional decision – on 11 December 2024 - setting out why I was not intending to uphold Mr B’s complaint.

In summary, I was intending to conclude that reasonable and proportionate checks won’t have shown that the monthly payments to Mr B’s loan were unaffordable. Therefore, it wasn’t unreasonable for Updraft to lend to Mr B in these circumstances and it didn’t fail to act fairly and reasonably in its dealing with Mr B.

## **The parties’ responses to my provisional decision**

Neither Updraft nor Mr B responded to my provisional decision or provided anything further for me to consider.

## **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 irresponsible and unaffordable lending on our website. And I’ve used this approach to help me decide Mr B’s complaint.

Having carefully considered everything, including what has happened since my provisional decision, I’m still not upholding Mr B’s complaint. I’ll explain why in a little more detail.

Updraft needed to make sure that it didn't lend irresponsibly. In practice, what this means is that Updraft needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Mr B before providing it.

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 that information – 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, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

Updraft says it agreed to Mr B's application after Mr B provided details of his monthly income and some details on his expenditure. It says it also carried out searches with credit reference agencies which not only showed that Mr B's bank account received monthly credits consistent with the income declared, but also that Mr B had no significant adverse information such as defaults or County Court Judgements ("CCJ") recorded against him.

In Updraft's view, when reasonable repayments to the credit Mr B already had were combined with the monthly payment for this agreement as well as the amount it had determined for Mr B's living expenses and this was then deducted from his monthly income, he still had sufficient funds to meet any other reasonable expenses. So it considers that the payments for the agreement were affordable as a result.

On the other hand, Mr B says that Updraft needed to better scrutinise the statements that it had access to as a result of him linking his current account. And if it had done this, it would have seen that he was gambling substantially and that this loan was unaffordable.

I've thought about what Mr B and Updraft have said.

The first thing for me to say is this wasn't simply a case of Updraft accepting over-optimistic declarations from Mr B at face value. Updraft's credit searches did show that Mr B had some existing debts. But these weren't excessive in comparison to his income and at the time of the applications, at least, they were being well managed. For example, I can't see that Mr B had any adverse information such as defaulted accounts or county court judgments recorded against him. Indeed, this is why he qualified for an APR of 8.9%.

Nonetheless, given it asked Mr B for access to his bank account, I think that there is a reasonable argument for saying that it was not reasonable for Updraft to use living costs based on statistics for Mr B. However, in my view, the information in the bank statements does, in any event, appear to show that when Mr B's committed regular living expenses and existing credit commitments were deducted from what he received each month, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept that it's possible that Mr B's actual circumstances at the time might have been worse than he let on – I've seen what he's said about his gambling. I appreciate that Mr B may have taken out other loans. However, as it is clear that these were being repaid on time and in full, it's difficult for me to say that Updraft was not entitled to take the credit risk it was prepared to take here.

Equally, even after having scrutinised matters at this stage, it isn't entirely clear to me that Mr B was gambling. We've asked Mr B to explain how the transactions on his linked account

relate to gambling. The explanation he's provided makes it abundantly clear that even if Mr B was gambling, for the sake of completeness I would add that I'm not prepared to make a finding that he was, he was doing so in a way that was masking what was going on.

For example, the transactions themselves weren't being made to typical betting companies. They were mostly to crypto currency accounts and payments to other companies. Indeed, it's arguably just as likely that Mr B was storing funds in crypto currency accounts, as it was that he was gambling.

Given the amount of funds that Mr B had available in his account, I don't think that it would have been fair, reasonable or proportionate for Updraft to have carried out enquiries into all of the companies Mr B was making payments to. This is particularly as the rest of the information gathered – regarding his income and lack of adverse credit history – didn't suggest that he was someone who might have experienced financial difficulty as a result of gambling.

In circumstances where the loan appeared to be affordable, I don't think it would be fair and reasonable for me to hold Updraft responsible for not learning of Mr B's gambling. This is especially given the lengths that Mr B went to mask his gambling and even now I've not been able to clearly see that he was gambling in the way that he says he was.

Finally, while I accept that this is not in itself definitive, the fact that Mr B was not only able to make all of his payments on time, but also repay the loan well ahead of schedule, does support the argument that Mr B was able to make his payments too. Given the low amount of interest paid overall, it's difficult for me to see the detriment to Mr B's position here either.

Overall and having carefully considered everything, I'm satisfied that Updraft carried out reasonable and proportionate checks, at least in terms of the information it gathered, before it agreed to provide this loan. And while it is fair to say that Updraft ought reasonably to have applied more scrutiny to this information, I'm not persuaded that doing so would more likely than not have clearly shown it that it was unfair to lend to Mr B.

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

However, for the reasons I've explained, I'm satisfied that Updraft did not irresponsibly lend to Mr B or otherwise treat 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 while I've considered everything that Mr B has said, I'm satisfied that Updraft did not act unfairly or unreasonably towards him. And I'm not upholding this complaint. I appreciate that this will be disappointing for Mr B – particularly as he appears to feel strongly about this matter and the investigator, albeit erroneously, suggested that his complaint should be upheld. But I hope he'll understand the reasons for my decision and at least feel that his concerns have been listened to.

### **My final decision**

For the reasons I've explained above and in my provisional decision of 11 December 2024, I'm not upholding Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 February 2025.

Jeshen Narayanan  
**Ombudsman**