

The complaint

Mr S complains that Plata Finance Limited, lent to him irresponsibly and without carrying out proper affordability checks.

What happened

In June 2024 Plata approved a loan of £7,500 for Mr S, which was scheduled to be repaid at just over £225 per month over a term of 60 months. The purpose of the loan seems to have been declared by Mr S to be to consolidate some debt. When assessing the application, Plata appear to have asked Mr S something about his financial circumstances (or perhaps given him the opportunity to correct its statistical assessment/assumptions) and carried out a credit check before approving the lending.

It seems that Mr S has maintained the account well so far.

The investigator looked at the evidence and thought Plata shouldn't have approved the lending for Mr S. Plata disagreed and asked an ombudsman to look at the complaint.

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 done so, and considered the points made by Plata, I'm upholding it, and I'll explain why.

Plata is aware of its obligations under the rules and regulations in place at the time of this lending decision, including the Consumer Credit Sourcebook ("CONC"), so I won't repeat them here. But, briefly, it was required to carry out sufficient checks to ensure that Mr S would be able to repay the borrowing applied for in a sustainable way. As set out in CONC 5.3.1G(2) that means that he could manage the repayments,

"...without...incurring financial difficulties or experiencing significant adverse consequences"

Essentially, he needed to be able to meet his financial commitments and not have to borrow elsewhere to repay Plata for the loan to be considered affordable and sustainable.

There are two questions I need to consider when deciding this case, which I will deal with separately below.

Did Plata carry out proportionate checks before granting this loan?

The investigator thought that Plata didn't do enough checks when assessing this application. In saying that, she highlighted Mr S's large amount of unsecured debt, relative to his income. Plata doesn't accept that, saying that, as a result of Mr S's good credit history and well

managed credit accounts, Plata “...*did not consider it proportionate to request any further information...*” from him. I don’t agree that decision was a reasonable and justifiable one. What those indicate is that Mr S was adept at managing his debt – what one might describe as “creditworthiness”. But the necessary checks are not designed to protect lenders from possible bad debt: they must be borrower focused, and assess the potential harm to the customer from further borrowing.

Alongside the issue of Mr S’s overall indebtedness, Plata’s credit check highlighted that he had withdrawn over £4,000 in cash on his credit cards in the preceding 12 months. And that was an established pattern over the preceding three years, during which time he had taken over £13,000 in cash advances. This is an extremely expensive way to borrow money and not something that is generally an indicator of financial wellbeing.

Plata highlighted that Mr S had the opportunity to amend monthly expenditure figures calculated by it during the course of the application, and that he chose to reduce those, leading to him potentially showing as having more disposable income. I accept that lenders are generally entitled to rely on the information provided to them by potential borrowers. And Mr S has explained that he was, frankly, desperate for money, and did not expect to be approved for this loan. So, in the round, I accept that Mr S may have attempted to make his financial situation look better than it was in order to secure the loan. But, in this case, and particularly bearing in mind the substantial sums in cash he had been withdrawing on his credit card, I don’t think that in any way enables Plata to say that it had no indication that Mr S might have been in a vulnerable situation. Reducing his monthly expenses on the application did not erase the clear flags of problems of which Plata was in possession.

Overall concerns about indebtedness and financial management ought to have raised a definite flag around his ability to take on further borrowing which was compliant with the relevant rules in place at the time. Coupled with the term and size of the loan in question, there is no doubt in my mind that Plata ought to have carried out further checks, and asked more questions of Mr S before approving this loan.

What would further checks have shown?

When considering this second question, our service has had the benefit of several of Mr S’s bank statements from 2024 to review, alongside a full credit file. I accept that there was and is no requirement on a lender to obtain any particular type of information: they are permitted to source and rely on a range of evidence when assessing affordability, and so Plata could have opted to gather more information about Mr S’s financial position in a range of ways. However, it didn’t, and, in the absence of anything else provided, I’m happy to rely on the bank statements and credit file to demonstrate what Plata would most likely have discovered if it had completed proportionate checks.

The investigator highlighted that the bank statements showed that Mr S was spending more than his monthly income on gambling, and that therefore Plata ought not to have approved the lending. Plata’s response did not deal with this in any way, and simply reiterated that its checks were proportionate.

However, I have thought in considerable detail about what Plata would have concluded from further evidence, such as the bank statements. And indeed we have asked Mr S for additional information. That is because, at first glance, the current account statements show a large income and rarely a balance anywhere near £0.

But a slightly more detailed review of the transactions quickly reveals concerns and a little probing identifies the extreme precariousness of Mr S’s finances. In one month, Mr S spent over £8,000 on gambling, which is more than twice his income. He won around £10,000,

but it goes without saying that this cannot be considered as income.

I think it is immediately obvious from the current account statements that Mr S had a problem with gambling. He himself has been brave enough to describe it as a “severe addiction”, which would appear to be borne out by the transactions.

What was also interesting to me was that in the latter two current account statements, there appear to be *no* gambling transactions at all. Could that have potentially been a source of reassurance to Plata that this borrowing was sustainable and affordable for him? We asked Mr S about what had been going on, and he talked about having applied blockers on his current account to stop him gambling that way. But that he had then simply turned to betting shops and using cash.

The large cash withdrawals are clear, and are not accompanied by a decline in debit card transactions, such as for coffees, eating out, or shopping. So it's not plausible that Mr S was simply choosing to do his spending in cash all of a sudden. It's reasonable to conclude that the cash withdrawals are for a particular purpose, and I am persuaded here that purpose was gambling.

I also noticed a large number of transfers backwards and forwards between Mr S's current account and another account, or accounts, of his. This is not uncommon where people are having financial difficulties, and I asked for further information. Mr S sent in a statement covering several relevant months of his savings account, which provide a fuller picture. What appears to have been happening in the Spring of 2024 is that Mr S would deposit any cash gambling winnings into his savings account, which was what was funding transfers into his current account at times.

So although the transactions on the current account initially suggest he had stopped gambling, and indeed may have had a rich seam of savings to draw on, I'm satisfied that is not true. And it would not have required any extensive detective work to identify that. In fairness to Plata, I have also thought carefully about what Mr S is most likely to have told it, had it taken the not unreasonable course of asking him verbally for more information. For example, it may well have asked which debts he was planning to consolidate with this loan. Or it may have asked him whether he had simply stopped gambling when those transactions disappeared from his current account statement in March 2024. And in considering that, I am alive to the possibility that he may not have been entirely truthful with Plata in his responses.

Had Mr S identified £7,500 worth of credit card debt to be consolidated, and answered “yes” if Plata had asked him whether he had stopped gambling, I don't think those inaccurate (hypothetical) answers could possibly have been considered plausible. From Plata's credit check, it was clear that cashflow was a significant problem, which was leading to both recent and long-term cash advances on credit cards. Any reassurances Mr S might have offered could not have been robust enough to also undermine the transactions and transfers that were evident on the current account statements. In short, I cannot see that there would have been anything Mr S could have said that would reasonably have convinced Plata that he did not have what he characterises as a severe gambling addiction, and that this borrowing was affordable and sustainable for him.

On the balance of probabilities, I am satisfied that proportionate checks would have led Plata to conclude that this borrowing was not affordable and sustainable for Mr S. It therefore follows that I uphold this complaint.

Putting things right

This loan is ongoing. On that basis, I direct Plata to do the following:

A) Plata must restructure the account to remove all interest, fees and charges from the loan, and treat any repayments made by Mr S as though they had been repayments of the principal on the outstanding loan.

B) If this results in Mr S having made overpayments then it must refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the payments were made, to the date the complaint is settled.

C) Plata should agree an affordable and sustainable repayment plan with Mr S.

D) Whilst I'm not aware that there is any so far, it must remove any adverse information recorded on Mr S's credit file in relation to this loan, once it is repaid in full.

*HM Revenue & Customs requires Plata to deduct tax from this interest. It should give Mr S a certificate showing how much tax it's deducted, if he asks for one.

My final decision

For the reasons I've explained, I uphold this complaint and direct Plata Finance Limited to put things right as set out above.

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

Siobhan McBride
Ombudsman