

complaint

Mr A says Oakam Ltd irresponsibly lent to him.

background

This complaint is about an instalment loan, for £400, which Oakam provided to Mr A on 1 November 2017.

Our adjudicator didn't uphold Mr A's complaint as he didn't think Mr A had been treated unfairly. Mr A disagreed and asked for an ombudsman's review.

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 set out our general approach to complaints about short-term lending - including all of the relevant rules, guidance and good industry practice - on our website.

Oakam needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out reasonable checks to understand whether Mr A could repay his loan in a sustainable manner. These checks 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.

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, the consumer'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 hasn't continued to provide these loans to a customer irresponsibly.

Oakam says it agreed to Mr A's application after he provided details of his monthly income and regular monthly outgoings, and it had carried out a credit check. Even though Oakam carried out a credit check, the regulations didn't require it to do so and from what I've seen the checks didn't suggest that Mr A wouldn't be able to make the repayment he was committing to. I accept that the check showed that Mr A had previously been in arrears but the arrears were satisfied by the time of the loan. Also, Mr A had historic defaults on his file but I don't think any of those entries should have prevented Oakam from lending to him as they don't suggest he'd have struggled to repay the loan.

Following Mr A's complaint, as a goodwill gesture, Oakam has agreed to remove all interests and charges from the loan and has frozen the balance at the principal amount of £400. It's important for me to say that taking into account the circumstances of this loan, I don't think Oakam did anything wrong by lending to Mr A. And even if I did think that Oakam had done something wrong, the appropriate redress would be to ask Oakam to refund any interest and charges Mr A had paid towards the loan but he'd still be liable for the loan capital. I can see that Mr A hasn't repaid any part of the loan and so in relation to this loan, Mr A hasn't suffered any financial loss.

Mr A's representative has said that Mr A had gambling problems and has provided information to show that Mr A went into counselling for gambling. Mr A's representative also says that Mr A owes several thousands of pounds to other family members and Oakam was wrong to lend to a vulnerable consumer. He says Oakam should have been aware of Mr A's gambling problem and his debts to other lenders.

While I appreciate that Mr A has had a challenging time with managing his money and having difficulties with debt to family and other lenders, I don't think it was reasonable at this stage in the lending relationship for Oakam to carry out a detailed check about Mr A's financial circumstances or verify the information he provided. Oakam was entitled to rely on the information Mr A provided at the time of this loan. And based on that information, Mr A could afford the loan.

I accept that Mr A's actual circumstances weren't reflected either in the information he provided, or the other information Oakam obtained. And Mr A's actual financial position might well have been apparent if further information – such as bank statements – had been obtained. But I don't think that's something Oakam needed to do here.

I've considered Mr A's submission about the outstanding balance being written off even though he's had the benefit of the money. I think there are two things for me to bear in mind in relation to this. Firstly, whether the lending was so irresponsible that Oakam should have known Mr A wouldn't be able to pay it back. As stated above, I don't think this loan was wrongly lent.

The second consideration is whether there's any prospects of Mr A being able to take control of his finances and get into a position to repay this loan. I've thought about this very carefully and Mr A has started taking steps to deal with his gambling problem and has been in counselling. I've also not seen any evidence that suggest Mr A wouldn't be able to get paid work. Mr A is likely to struggle to repay this loan due to his level of indebtedness, but overall, I don't think there's enough here for me to say Oakam should write off the capital borrowed.

My role is to look at whether Oakam has done something wrong and from what I've seen, I don't think that it has done anything wrong but has treated Mr A fairly in the circumstances. I appreciate that my findings are likely to disappoint Mr A and his representative but I hope my explanation goes some way in helping Mr A understand why I've reached these conclusions.

my final decision

I do not uphold Mr A's complaint and make no awards against Oakam Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 16 September 2019.

Oyetola Oduola
ombudsman