

## **complaint**

Mrs H complains that Amigo Loans Ltd lent money to her that she could not afford to repay.

## **background**

Mrs H entered into two loans with Amigo Loans one in 2012 and the second in 2016. This complaint relates to her 2016 loan.

Mrs H says that the loan was unaffordable and that had proper checks been carried out Amigo Loans would have realised this. She said it was not sufficient to say that the loan was affordable just because the guarantor could afford it. At the time of the loan, Mrs H says she was in financial difficulty and had county court judgement (CCJs) against her which were recorded on her credit report. Mrs H says she was not asked for a copy of her bank statements or proof of income and that her expenses were not adequately checked. Had her bank statements been provided she says these would have shown that she had a problem with gambling.

Amigo Loans says that it carried out an income and expenditure assessment before the loan was provided. It says Mrs H said she earned £2,000 each month and had around £1,000 of expenses. It verified Mrs H's income through an external service and her expenditure figure was compared to national averages. It says based on the information it received the repayments were affordable.

Amigo Loans says Mrs H explained the reason for the loan was home improvements. She was questioned on this and provided further explanation of why the loan was needed. It discussed Mrs H's other creditors with her to ensure these payments were included in her assessment. It says Mrs H did not make it aware of her gambling at the time.

Our investigator did not uphold this complaint. She thought that Amigo Loans had carried out adequate checks and said it was reasonable that it relied on the information Mrs H provided. She said that Amigo Loans was not required to ask for copies of bank statements.

Ms H did not accept our investigator's view. She said that more questions should have been asked about her expenditure and the multiple loan application searches that were recorded on her credit file. She reiterated that she was not asked for proof of her income.

Mrs H also raised a concern about a data breach in the information she had been sent by Amigo Loans in response to the subject access request.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mrs H entered into a £7,500 loan with Amigo Loans in 2016. The loan was repayable over five years with monthly repayment amounts of just under £300.

Before the loan was provided, Amigo Loans carried out an income and expenditure assessment and a credit check. It is reasonable that Amigo Loans relied on the information Mrs H provided but it is also reasonable that it would have asked questions if any of the information gathered raised concerns.

Mrs H said that her monthly income was £2,000. Amigo Loans said that it carried out a verification check which supported this figure. I think based on this it was reasonable to accept Mrs H's income figure and I note that her bank statements show an income at the time of just over £2,000.

In terms of expenses, Amigo Loans asked questions about Mrs H's housing costs and utilities, transport costs, insurance, and telephone / internet costs. Mrs H provided information about these and also that her partner paid certain costs. Amigo Loans says that it checks expenses against an external source. Again, I do not find it unreasonable that Amigo Loans accepted Mrs H's figures in regard to her normal living expenses.

Based on the income and expenses information the loan repayments appeared affordable. However, Amigo Loans also carried out a credit check and this contained information that I think should have raised concerns.

Amigo Loans provides loans to customers that may not have good credit scores. The credit information received by Amigo Loans showed that Mrs H had eight county court judgements of which five had been satisfied. Of the three remaining Mrs H says on the call that the largest one had also been satisfied.

Given Mrs H's credit file it is reasonable to expect Amigo Loans to have asked further questions to understand Mrs H's financial situation.

I have listened to the call that happened between Mrs H and Amigo Loans. On this Mrs H's income and expenses are discussed and I don't find that it was unreasonable to rely on the information Mrs H provided. The judgements on Mrs H's credit file are also discussed and it is explained that allocations need to be made for payments towards these. This is when Mrs H explains about one judgement having been satisfied. I note that Mrs H is told she should budget an amount towards her defaulted accounts and active judgements and that this can be as little or as much as she likes. I think that further questions about the amounts due could have been asked at this point.

However, on the call Mrs H does allocate an amount to the outstanding judgements and defaulted accounts. This is taken into account and her disposable income still suggests her repayments would be affordable.

On the call, a discussion also takes place asking why Mrs H doesn't have savings given her disposable income. Mrs H explains this.

Based on the call, I think that Amigo Loans did carry out further checks because of the information in Mrs H's credit file. It asked questions about her payments to creditors and also why she didn't have savings given her disposable income. It was reasonable that it relied on the information Mrs H provided. Therefore in this case I think that Amigo Loans did carry out sufficient affordability checks.

Mrs H has said that copies of her bank statements should have been checked. Amigo Loans was not required to do this, only to carry out proportionate checks. I appreciate that had it asked for bank statements it would have seen that Mrs H was spending significant amounts on gambling. However as Mrs H didn't make Amigo Loans aware of this issue and it was not required to ask for her statements I don't find it did anything wrong by relying on the information it had gathered.

I also note that Mrs H has maintained her repayments on the loan.

Mrs H has also raised a concern about the response to her subject access request. She has said that Amigo Loans is looking into this but she hasn't had a response. As this is a separate complaint I have not considered this further. However I note that it is the role of the Information Commissioner's Office to decide if a business has breached data protection. We can consider any impact a breach has had on Mrs H.

**my final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 1 March 2019.

Jane Archer  
**ombudsman**