

complaint

Mrs E thinks that Oakbrook Finance Limited, trading as Likely Loans, treated her unfairly when it lent her money in August 2018.

background

In August 2018, Likely Loans lent Mrs E £1,000, which Mrs E agreed to repay, with interest, over 12 months. The monthly repayments were £115.96, and if Mrs E made all her payments on time, she'd pay £1,391.52.

Mrs E thinks Likely Loans was irresponsible to lend her the money.

I issued my provisional findings on this complaint on 27 May 2020. I said that, based on what I'd seen, I thought the complaint should be upheld.

Likely Loans has replied to say it agrees with my provisional findings. Mrs E has said she has nothing further to add. I have therefore looked at the complaint again.

my findings

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

In considering what is fair and reasonable I have taken into account relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and what I consider to have been good industry practice at the time.

As Likely Loans was entering a regulated credit agreement, it needed to assess Mrs E's creditworthiness, including the potential for the commitments under the agreement to adversely impact Mrs E's financial situation, and the ability for Mrs E to make repayments as they fell due over the term of the loan.

In particular, the regulator's rules that applied to Likely Loans at the time said it needed to take reasonable steps to assess Mrs E's ability to meet the repayments under the agreement in a sustainable manner without Mrs E incurring financial difficulties or experiencing significant adverse consequences. This included Mrs E being able to make the payments on time while meeting his other reasonable commitments and without having to borrow to meet the repayments.

Any checks Likely Loans carried out had to be proportionate to the specific circumstances of the loan agreement. This depends on a number of factors, including the circumstances of the borrower, and the amount, type and cost of the credit they're seeking. Even for the same consumer, what is proportionate may differ between loan applications.

In my provisional decision, I said that I thought the complaint should be upheld. I said:

I've looked at what Likely Loans asked. It says that when it decided to agree the loan it used the information it received from Mrs E in her application together with information it received from a credit reference agency.

I've looked at Likely Loans's record of Mrs E's application. This says Mrs E told them she had an annual gross income of £30,000 a year, and had £0 in outgoings.

I've also looked at the information Likely Loans received from the credit reference agency. This showed Mrs E had existing debts of £5,300. It therefore concluded Mrs E was spending around 5% of her income on existing debt repayments, and that the new loan was around 3.3% of her income. And it concluded that Mrs E met its affordability criteria at the time.

But based on what Mrs E told Likely Loans, I think further checks would have been proportionate.

First, I'm mindful that the rules that applied to Likely Loans at the time said it shouldn't accept an application where it suspected that the customer hadn't been truthful in completing the application in relation to information relevant to the creditworthiness assessment. I think it's extremely unlikely that Mrs E would have had zero expenses. I think that if Likely Loans wanted to lend, it was important that it clarified this.

The information Likely Loans received from the credit reference agency also suggested that what Mrs E had said about her expenses might not be right. She had over £5,000 in existing debts. The other information from the credit reference agency suggested that Mrs E had a high level of indebtedness. I think this reflected the fact that, according to the full credit file Likely Loans has provided, since the beginning of August 2017 Mrs E had opened six credit cards, most of which had had balances approaching their credit limits. This also seems inconsistent with zero expenses.

I note the detailed credit file Likely Loans submitted in response to this complaint was created when it investigated Mrs E's complaint, and not at the point it lent Mrs E the money. So I can't be certain to what extent the information it used in its affordability checks reflect the amounts shown on the detailed credit report it has submitted.

But it was important for Likely Loans to consider whether it was sustainable for Mrs E to take on additional credit. I think further checks were appropriate.

I've therefore gone on to consider what further checks would have revealed. Mrs E has told us she was a single parent with two dependent children. She says she paid rent of £440 a month. And she's also sent us bank statements – and in the absence of better information I think the information in these statements are the best information I have of what further checks would have revealed.

Mrs E initially told us her income was a lot less than the figure stated on her application. I see that her salary, paid just one day before she drew down this loan, was £1,120. But after we put the dates to her she confirmed that she was just about to start a new job with a salary of £28,000 a year, so I think it's likely the income she gave Likely Loans reflected this.

I'm nevertheless concerned that Mrs E's expenses were considerable. In the month before she drew down this loan, she spent around £3,200. I also see evidence that her ex-partner was sending her money to help her pay for important bills, such as car insurance. In addition, I see payments to a sheriff's officer – Mrs E says she was being pursued for council tax arrears. And so I think even limited checks of Mrs E's current spending would likely have made Likely Loans aware that Mrs E was struggling to meet her day to day expenses.

Additionally, I note that a significant part of her spending each month was on internet gambling: £2,000 in the month before she took out the loan. It seems likely that Mrs E was borrowing to gamble – for example, she took out a loan of £1,000 in July 2018 and then on the same day spent £1,550 on an online gambling site.

Based on what I've seen, then, Mrs E was borrowing more money at a time when she was having difficulties paying other important financial commitments. So I think there was a real prospect she'd need to borrow again to fund these new commitments.

For these reasons I think that if Likely Loans had carried out further checks I think it's likely it would have realised that further lending wasn't sustainable. I think it wouldn't have lent Mrs E the money. And so I think Mrs E has lost out.

Likely Loans says it agrees with my findings. Mrs E hasn't sent me anything further to consider. I therefore reach the same findings for the same reasons.

putting things right

Likely Loans shouldn't have given Mrs E this loan. So Likely Loans needs to:

- (a) Add together and pay back the total of the repayments made by Mrs E towards interest, fees and charges on the loan
- (b) Work out interest (the rate is 8%) on this part of the repayments from the date Mrs E paid them until she gets them back
- (c) Pay the amounts worked out to Mrs E

*HM Revenue & Customs requires Likely Loans to deduct tax from this interest. It should give Mrs E a certificate showing how much tax it has deducted, if Mrs E asks for one.

Likely Loans has told me that as at 16 June 2020 Mrs E has paid £1,391.52 towards this loan. She borrowed £1,000. So it proposes to pay her £391.52, plus simple interest, which was £22.79 at the point it made its offer. It has also confirmed that any negative information regarding the loan will be removed from her credit file.

my final decision

For the reasons above, I uphold Mrs E's complaint. I direct Oakbrook Finance Limited to put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 22 July 2020.

Edward Hardman
ombudsman