

complaint

Mr H has complained about a guarantor loan he was given by 1Plus1 Loans Limited (1Plus1 Loans). He believes 1Plus1 Loans shouldn't have lent to him because he couldn't afford the repayments. He also believes 1Plus1 Loans hasn't dealt with him in a positive and sympathetic manner while he's been in financial difficulties.

background

Mr H took a loan with 1Plus1 Loans in March 2017 for £4,500, which when repaid totalled just over £7,000 when taking account of the interest. The loan was to be repaid over thirty months and the monthly repayments were £236.25. As mentioned above a guarantor was set up on the loan. For the first five months the loan repayments were made in full with no problems.

In August 2017 Mr H telephoned 1Plus1 Loans to explain that due to an unforeseen expense (a vet bill) he was unable to make the full payment for the loan that month. He asked if he could take a payment holiday or if there was anything else that could be done. Initially 1Plus1 Loans explained that it didn't offer payment holidays. So the only thing it would do is take the payment from the guarantor via the continuous payment arrangement that had been set up at the time of the loan application. Mr H didn't want the guarantor to pay the shortfall so escalated his issue which later turned into a complaint. Having reviewed the situation 1Plus1 Loans then agreed to make an exception and upon proof of the amount of the vet bill it agreed it could come to an arrangement to help him. However, the bill that Mr H provided was for £51 rather than the £600 that he initially quoted. As the loan set up had £100 put by for unexpected payments this adequately covered the vet bill therefore, 1Plus1 Loans felt it didn't need to do anymore.

Mr H raised a formal complaint saying that 1Plus1 Loans hadn't dealt with him in line with "regulation" after he notified it of the financial hardship he was suffering. He also claimed that the loan was unaffordable from the outset and 1Plus1 Loans didn't make the appropriate checks before it agreed to lend him the money.

The complaint was assessed by one of our investigators who didn't think it should be upheld. He felt 1Plus1 Loans had carried out the appropriate checks correctly and no information it had gathered indicated it shouldn't have lent to Mr H. He also felt 1Plus1 Loans had done all it could in line with its terms and conditions of the loan to help Mr H.

Mr H disagreed with the assessment. He said he already had a high level of defaulted credit when 1Plus1 Loans approved the loan. He also remained of the view that he wasn't treated correctly in light of his financial difficulties.

I previously issued a provisional decision upholding this complaint on the basis that I wasn't satisfied that Mr H was dealt with in a positive and sympathetic manner in light of his financial difficulties by 1Plus1 Loans. I was also of the view that the loan was unaffordable and 1Plus1 Loans should have conducted more checks than it did to check affordability. An extract is attached and forms part of this decision.

Mr H accepted the findings of the provisional decision.

1Plus1 Loans didn't accept the provisional findings and provided a substantial response.

It provided two further calls which it hadn't provided before. One was the guarantor's affordability assessment call and the other was a call which took place between a different adviser and Mr H the day after he raised his initial complaint. 1Plus1 Loans has said the content of these calls prove that the correct assessments were carried out to ensure the loan was affordable for the guarantor and they also show how fairly and respectfully Mr H was treated by 1Plus1 Loans.

It accepted that the call that led to the complaint which I commented on in the provisional decision could have been handled better but this was an isolated incident and this individual has subsequently been retrained.

It stated that it takes its affordability responsibilities very seriously. It also made the point that the adviser who went through the application process did ask for proof of salary and also validated Mr H's payslip. It also said she had full sight of his credit file and wasn't sure why it was written in the provisional decision that this wasn't the case.

It highlighted that since making the complaint 1Plus1 Loans has provided several forms of help to Mr H including not adding any further interest or charges to his account while the decision is finalised.

It also commented extensively on Mr H's behaviour including the telephone calls, his general dealings with 1Plus1 Loans and also on Mr H's social media and forum postings. It also provided internet links to his posts dating back to the point he first raised the complaint. It feels that Mr H isn't in financial difficulties, noting he made five repayments to the loan without problem, and only wants to discredit its business.

It also feels the suggestion in the provisional decision to remove the adverse credit information from Mr H's credit file is inconsistent with Principal 4 of the Data Protection Act (DPA) 1998 which states that "personal data shall be accurate and, where necessary, kept up to date". And that the £200 suggested in addition to the other redress methods is excessive.

my findings

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

I have taken account of everything 1Plus1 Loans has said, and I will address the individual points in detail below. But I am not persuaded to depart from my provisional findings.

It's important to note that my decision is not a comment on 1Plus1 Loans' practices in general. My decision is based wholly on the specifics of this complaint alone.

I am pleased to see that further calls have been provided although it would have been useful if 1Plus1 Loans had provided them when requested by the investigator and then by me before I wrote the provisional decision. However, they don't change my view of how 1Plus1 Loans has dealt with Mr H or how it conducted his affordability assessment.

Having listened to the call where Mr H was contacted by the complaints adviser I agree with the comments made by 1Plus1 Loans that he was calm and respectful. Mr H in contrast did seem very agitated. However given the nature of the previous call, which I addressed in my

provisional findings, I don't think it should be too much of a surprise that he was agitated and I feel that the damage was done in that first call.

However, despite the relatively calm nature of this call the fact remains that when Mr H said in the call previously addressed that he would not be able to pay for food that month if he was forced to make the loan repayment there was no acknowledgement of or reference to this by that adviser. That in itself wasn't 1Plus1 Loans dealing with his mention of financial difficulties in a positive and sympathetic manner. I appreciate the level of the vets bill was mis represented by Mr H (also previously addressed) but I think having listened to the call its quite obvious he was in a desperate situation and ignoring this and some of the comments he made about his financial difficulties wasn't helpful.

Overall, one call which wasn't as heated as the others I have heard doesn't prove without any doubt that 1Plus1 Loans treated Mr H in the most appropriate way in light of his financial difficulties.

The second call that has been provided is the affordability assessment for the guarantor. I am pleased to now hear that this call did take place, despite me having asked for his previously. However, just because the guarantor can afford to make the repayments doesn't absolve a lender of its responsibility to ensure the person actually being loaned the money can afford to repay it. I appreciate the nature of guarantor loans and what 1Plus1 Loans has said about this type of lending filling a gap in the market by allowing people with financial problems to borrow money and/or consolidate previous loans and default to rebuild their credit profile. But again this doesn't mean that someone who can't afford it should still be loaned money.

I appreciate that 1Plus1 Loans has measures in place to assess affordability and I haven't doubted this at any point. But my point in the provisional decision was that in this specific situation 1Plus1 Loans should have carried out further checks to ensure affordability based on the initial information Mr H gave. I also mentioned the limited credit information available to the adviser because when I asked 1Plus1 Loans to provide me with everything the adviser would have seen about Mr H in that call all I was sent was a screen shot which showed a list of accounts and what their status was - live, settled or defaulted. Therefore based on that information I couldn't be certain that the adviser was able to see Mr H's full credit history. In any event, however, whatever details the adviser saw, full credit file or just what was sent to me, I think it would have been clear from that information that Mr H had some significant financial problems so I think she should have asked for more details before granting the loan. Mr H's recent default history and the fact he had said during the loan application call that he didn't intend on paying off much of his debt should have prompted further enquiries on the part of the business

Ultimately my view is that Mr H's credit history was enough for 1Plus1 Loans to probe further into his financials and ask for more evidence. It's not for me to say what evidence it should have looked at. But if, for example, it would've looked at his bank statements like I have done, I think it have seen the full extent of Mr H's financial problems.

I know 1Plus1 Loans has said it wouldn't ask for further information as the norm but my view is that further enquiries should be made if the initial information uncovers some extreme financial issues. And in this case I think this should have happened.

I know that Mr H made the loan repayments for the first five months so it can be argued that it was affordable, and I acknowledge what 1Plus1 Loans has said about this. I have seriously

considered this point. But having looked at Mr H's statements in my view his salary and benefits alone were not sufficient for him to cover the payments of this loan along with other debts he was trying to pay. He regularly received lump sums of money from family but this was transferred out almost immediately upon receipt and was also paid back if he could. There were, however, some months where he did have surplus cash available of around £200-£300 but this wasn't a regularly situation and this was due mainly to the additional sums he received from family and friends.

I take on board the point 1Plus1 Loans has made about my suggestion to remove any adverse information from Mr H's credit file in relation to this loan. But I think it has failed to realise that if Mr H should never have been given the loan then he would never have that adverse credit information in the first place. Therefore it must be removed.

With regards to the comments 1Plus1 Loans has made about Mr H's behaviour and online postings, while I can see 1Plus1 Loans feels very strongly about this, I can't comment on any of this. My role is to be completely objective and not be swayed in any part by such things. All I can do is consider the complaint in hand, identify if an error has occurred and, if so, find the most fair and reasonable way to fix that error.

Overall, Mr H's financial situation was dire and he was in a spiral of debt. This was obvious from his credit file and I think sight of this should have prompted further enquiries by 1Plus1 Loans before it agreed to lend. Had this happened I think 1Plus1 Loans should have realised that the loan shouldn't have been granted.

The loan was unaffordable for Mr H and simply relying on the guarantor to make the payments in lieu of Mr H doesn't absolve 1Plus1 Loans of its responsibility to do all the necessary checks, pick up on when further checks are required and to lend responsibly.

my final decision

My final decision is that I uphold this complaint.

To put things right 1Plus1 Loans Limited should:

- Re-work the loan to take off all the interest and charges, leaving only what's left of the principal sum to be repaid.
- Discuss a new repayment plan with Mr H for the revised amount rather than pursuing the guarantor.
- Remove any adverse information about the loan from Mr H's credit file and from the guarantor's (if applicable).
- Pay Mr H £200 in recognition that it didn't treat Mr H in a positive or sympathetic manner in light of his financial difficulties.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 3 May 2018.

Ayshea Khan
ombudsman

extract provisional decision

There are effectively two aspects to Mr H's complaint – was the loan affordable from the outset and whether he was dealt with appropriately in light of him telling 1Plus1 Loans that he was in financial difficulties

was the loan unaffordable from the outset and should 1Plus1Loans have seen this before granting the lending?.

When lending money any lender has the duty to lend responsibly. There are rules around lending money and lenders should ensure the credit provided can be repaid. But there is no prescribed list setting out what every lender should do in every case and exactly what each lender must do to satisfy itself the credit can be repaid is up to each lender to decide. But any checks the lender undertakes should be proportionate to things like the amount borrowed.

1Plus1 Loans has only provided two telephone call recordings of its dealings with Mr H. I will deal with the second call later in this decision. The first call I have deals with the affordability assessment carried out on Mr H with regards to the loan. And this call causes me some concern. In this call the adviser questions Mr H's outgoings and what he pays for household upkeep and food. She explains that she has his credit file in front of her but from the information 1Plus1 Loans has given me it isn't Mr H's full credit report. Nevertheless it does show a number of accounts in Mr H's name that were currently "live" "settled" or in "default". Overall this record shows there were twenty-two accounts in total showing for Mr H, of those eight were in default, six had been "settled" and eight were live. The adviser also questioned Mr H on other credit he held with other providers and Mr H confirmed that he had defaulted on some pay day loan accounts, credit card accounts, telephone providers and current accounts. He said he intended to pay some of the balance on another loan he'd taken and planned to offer to settle some of the outstanding balance on one other credit card. He also confirmed that he had no intention of paying anything towards the other defaulted accounts.

I appreciate the adviser asked for Mr H's income and expenditure but I think the number of defaults he had should have been enough for her to ask for some further information before agreeing to lend to him and to question him more closely on his financial situation as there were signs the loan might not have been affordable. I know defaults aren't always indicative of current financial problems but some of these defaults were dated as recent as September 2016, December 2016 and January 2017. So I think this would have been enough to prompt 1Plus1 Loans to ask for further information and do more checking that the loan was affordable before it agreed to lend. I don't think it was reasonable for it to rely solely on the income and expenditure details Mr H gave given the information on his file.

So I think 1Plus1 Loans should have done more to satisfy itself that the loan was affordable knowing what it did about Mr H's circumstances. For example, it could've asked him to provide his bank statement or credit file, as I have done. If it had done this it would have seen that, for instance, for household utilities he was in a significant amount of arrears and he was paying this off in small amounts through a plan. It would also have seen that while Mr H was in receipt of his monthly salary this was being transferred out to pay for debts as soon as it was being received. He was also in receipt of significant sums from family members but this was also being transferred out in smaller amounts presumably to cover other debts and lending.

Had 1Plus1 Loans asked for further information I think it would have been clear that Mr H was taking out other loans and borrowing money to repay debt and that he had a significant amount of debt and arrears already in place at the time of applying for this loan.

Overall, I think had 1Plus1 Loans made further enquiries and looked into Mr H's situation more closely before lending him the money I think it would have seen that financial position wasn't very stable and there was cause for concern over his ability to pay the lending back.

I know 1Plus1 Loans wasn't obliged to look at the further information and bank statements. But it was obliged to ensure the lending was affordable knowing what it did about Mr H at that time. And by that time it had enough of a clue to have been prompted to undertake a more thorough review of his circumstances be that from his bank statements or by other means. But I can't see this happened so I don't think 1Plus1 Loans carried out appropriate or enough checks. Had it done so I think it would have seen, like I have, that the loan was actually unaffordable for Mr H.

was Mr H treated appropriately in light of his financial difficulties?

When financial difficulty has been declared, a financial business should treat the customer in a "positive and sympathetic" manner. There isn't a set method for this because it does depend upon the individual situation, but measures could include cancelling unaffordable direct debit payments or setting up some sort of payment plan or generally being a bit more flexible than normal given the difficult position a customer is in. Each customer's circumstances will vary so there are no set measures but I would expect a financial business to understand what the customer's difficulties were and consider what it could do to help.

In this case I can't see that 1Plus1 Loans did this. I have listened to the second and last telephone call it's provided where Mr H called to ask about taking a payment holiday. He explained that he was unable to make the full repayment of the loan for that month and wouldn't be able to pay for his council tax or food that month if he had to make the full payment. The adviser, however, explained that 1Plus1 Loans would therefore collect the outstanding monies from the guarantor as its terms and conditions allowed. A heated conversation then ensued in which both parties to the call clearly showed their frustration with the situation. The conversation was not productive at all and at no point did the adviser acknowledge that Mr H had said he was in financial difficulties nor did she even react to him not being to buy food or pay his council tax

I realise that the loan is a guarantor loan and that it is clearly set out that if the payment can't be made then the guarantor would be liable. But I still think that when financial difficulties are declared, 1Plus1 Loans had a duty to explore those difficulties to see what it could do to help rather than rely on its terms straight away with no other considerations. I also think it's important to note in this case that Mr H had been making the full repayments for five months with little problem. From what I can see this was the first time he had called to ask for help or for a different arrangement. Also Mr H explained that he still wanted to make a payment but just couldn't make the full payment – he was about £100 short of the full payment.

It looks to me that Mr H was aware of his obligations under the terms of the loan but because of the difficulty he found himself in, he wanted to see if 1Plus1 Loans would help him in another way rather than just take the money from his guarantor. I think that in response to the information he gave the adviser in the call 1Plus1 Loans could have done more to help Mr H at this point in time. Again, I'm aware of the terms of the agreement, but I think given he was still trying to make a payment, just not the full amount I think this could have been

considered by 1Plus1 Loans. This would have been acting more in a sympathetic and positive manner as it is required to do. Instead I heard nothing like this happening in the call. All I did hear was a conversation which had escalated to unprofessional levels with clear frustration on both sides and no attempt to help or resolve the matter in hand.

In summary therefore, given everything I have seen and heard, I currently think that 1Plus1 Loans didn't carry out enough checks to ensure Mr H could afford the repayments of the loan without sacrificing something else. I don't think it should have agreed to lend to Mr H because I don't think the loan was affordable for him.

I also think that 1Plus1 Loans failed in its duty to act positively and sympathetically in light of Mr H's financial difficulties and that had it done so this issue could have been resolved earlier with less aggravation for both parties. I therefore think that Mr H should be awarded £200 in recognition of this.

Overall, therefore, I think the complaint should be upheld.