

The complaint

Mr Y complained that FUND OURSELVES LIMITED ("Fund Ourselves") gave him loans he couldn't afford to repay.

What happened

Mr Y was advanced three loans by Fund Ourselves and below is a table of his borrowing.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	highest repayment
1	£300.00	17/08/2021	26/11/2021	4	£135.60
2	£400.00	09/02/2022	25/05/2022	4	£184.00
3	£1,500.00	10/06/2022	outstanding	6	£500.00

Mr Y referred his complaint to the Financial Ombudsman after it has been reviewed by Fund Ourselves who didn't uphold it.

The complaint was considered by an adjudicator, and she didn't think Mr Y's complaint should be upheld about loans one and two. But she thought Fund Ourselves shouldn't have granted loan three because Mr Y's monthly repayments represented a significant portion of his income.

Fund Ourselves didn't agree, because the credit check results for loan three, as well as the income and expenditure details, showed the loan was affordable.

As no agreement could be reached, the case was passed to me, and I proceed to issue a provisional decision explaining the reasons why I was intending to not uphold Mr Y's complaint.

Both parties were asked to provide any further submissions as soon as possible, but in any event, no later than 21 September 2023.

Neither party provided anything further for my consideration and so a copy of the provisional findings follow this in smaller font and forms part of this final decision.

What I said in my provisional decision:

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 this type of lending - including all the relevant rules, guidance and good industry practice - on our website.

Fund Ourselves had to assess the lending to check if Mr Y could afford to pay back the amounts he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Fund Ourselves' checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments,

and Mr Y's income and expenditure.

With this in mind, I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Fund Ourselves should have done more to establish that any lending was sustainable for Mr Y. These factors include:

- *Mr Y having a low income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);*
- *The amounts to be repaid being especially high (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);*
- *Mr Y having a large number of loans and/or having these loans over a long period of time (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);*
- *Mr Y coming back for loans shortly after previous borrowing had been repaid (also suggestive of the borrowing becoming unsustainable).*

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable for Mr Y. As there were only three loans granted and a small gap between loans one and two the adjudicator didn't think this applied to Mr Y's complaint and I agree.

Fund Ourselves was required to establish whether Mr Y could sustainably repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr Y was able to repay his loans sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that payments are sustainable if they are made without undue difficulties and in particular, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mr Y's complaint.

Neither Mr Y nor Fund Ourselves have disagreed with the adjudicator's findings about loans one and two. So, these loans, in my view are no longer in dispute and I say no more about them. Instead, this decision will focus on whether Fund Ourselves did all it ought to have done before it advanced loan three.

Loan 3

As part of his application, Mr Y declared a monthly income of £1,850 from full time work. Fund Ourselves says that this income was verified using a tool provided by a credit reference agency and the result of that check, indicated the income declared by Mr Y was likely to be accurate.

Mr Y was also asked to declare his outgoings across a number of different variables, such as travel, rent, utilities and food. Mr Y declared his outgoings were £560 per month. Fund Ourselves believed, based on the information Mr Y provided that he had at least £1,290 per month in disposable income to afford the monthly loan repayments of £500. Therefore, it would've been reasonable for Fund Ourselves to believe the loan to be affordable for Mr Y.

Before the loan was approved Fund Ourselves also carried out a credit search and it has provided the Financial Ombudsman with the results it received from the credit reference agency. So, I've looked at the results to see whether there was anything contained within it that would've either prompted Fund Ourselves to have carried out further checks or possibly have declined Mr Y's application.

Having looked at the results there wasn't anything that would've concerned Fund Ourselves, its previous loans were reported and on top of that it appears he only had an overdraft and three credit cards – but these had been maintained well.

The adjudicator upheld this loan because Mr Y was committed to paying around 27% of his income, each month for six months. And in her view, that constituted a significant portion. Which ought to have led Fund Ourselves to the conclusion that the loan was unsustainable for him.

In response, Fund Ourselves seem to have focussed on the fact that the income and expenditure information it gathered showed the loan was affordable. But as I said earlier on in this decision, the affordability assessment had to extend beyond just finding out whether the loan was pound and pence affordable.

In some situations, the percentage of income Mr Y was committed to paying Fund Ourselves could've been significant enough for me to conclude that the loan ought to not have been granted. However, in the individual circumstances I do not think Fund Ourselves would have been concerned by his percentage of income.

Firstly, loans one and two had been repaid without any obvious problems and there was a small gap between the two – they weren't taken in a consecutive manner. Mr Y had also declared he lived at home with his parents so although his living costs were low that was explained by what Mr Y had told Fund Ourselves. And as he lived at home, he was less exposed to not meeting priority bills such as rent or council tax.

In addition, the credit search results didn't indicate either a reliance on this type of high-cost lending nor were there any signs he was struggling to keep on top of his existing credit commitments.

Thinking about those factors I have outlined above, in this case, it has led me to conclude, that the percentage of income, on its own, isn't sufficient to uphold this complaint or to show the loan was unaffordable or unsustainable.

But, in saying that, Mr Y had taken his third loan in relatively quick successions. Loan three was also the largest capital loan, with the longest term and with the largest monthly repayment and the repayments for this loan were significantly greater than what he had paid before.

Therefore, I do think at this point it would've been proportionate for Fund Ourselves to have carried out further checks into Mr Y's financial position. Fund Ourselves could've gone about doing this a number of ways, perhaps by reviewing bank statements, copy bills or his wage slips. Fund Ourselves didn't do this and so the checks it carried out before this loan were approved, where not in my view proportionate.

However, that isn't the end of the matter, for me to be able to uphold this loan I would have to be satisfied that had further checks been conducted Fund Ourselves would've likely discovered the loan was neither affordable nor sustainable for him. Mr Y has been asked for copy bank statements covering the period when this loan was advanced. However, no response has been received.

Mr Y now has a further chance to provide copy bank statements or any other evidence from around the time loan three was advanced to show what his actual financial position was before I reconsider the complaint and issue a final decision.

Without any new or further information, I can't conclude that had Fund Ourselves made better checks it would've likely discovered this loan was unaffordable or unsustainable for Mr Y.

Therefore, as things stand at the moment, I am intending to not uphold Mr Y's complaint

about loan three. An outstanding balance currently remains due and I would remind Fund Ourselves of its obligation to treat Mr Y fairly and with forbearance.

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.

As no new submissions were provided, I am not in a position to depart from the findings I made in the provisional decision.

I still think Fund Ourselves needed to have carried out further checks before it advanced loan three. But without bank statements or any other documentation from Mr Y, I am not in a position to be able to conclude that those further checks would've likely shown Fund Ourselves that the loan was either unaffordable or unsustainable for him.

It therefore follows that I am not upholding Mr Y's complaint.

My final decision

For the reasons I've explained above and in the provisional decision, I'm not upholding Mr Y's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 7 November 2023.

Robert Walker
Ombudsman