

Complaint

Mrs J is unhappy with what Oakbrook Finance Limited (trading as “Likely Loans”) has agreed to do to put things right after she complained about having been irresponsibly provided with a loan.

Background

After Mrs J referred her complaint to us, Likely Loans accepted that it shouldn’t have lent to Mrs J. It agreed to reduce what she still owed on her loan to ensure that she pays no more than the amount she was lent in the first place. Our adjudicator thought that what Likely Loans had agreed to do to put things right was fair and reasonable in all of the circumstances of the case. Mrs J disagreed and asked for an ombudsman’s decision.

My findings

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

Having carefully considered everything, I think that what Likely Loans has already agreed to do to put things right for Mrs J is fair and reasonable in all the circumstances of his complaint. I’ll explain why I think this is the case. Likely Loans has agreed that it shouldn’t have provided Mrs J with her loan. And it has agreed to limit the amount that she repays to the amount that was lent in order to put things right.

It might help for me to start by explaining that where a business accepts (or we decide) it did something wrong, we’d expect the business to put the consumer in the position they would be in if that wrong hadn’t taken place. And in an ideal world, we’d tell a business to put a consumer in the position they’d now be in if they hadn’t been given the credit they shouldn’t have. However, that’s not possible in cases where funds that shouldn’t have been advanced were advanced because typically those funds will have already been spent.

So we have to look at a way of asking a business to put things right in a fair and reasonable way. And where a business provided a loan that was unaffordable we’d typically expect it to put the consumer in the position they’d be in now if they hadn’t paid any interest and charges on that credit.

This means we’d normally expect a lender to refund the interest and charges. And if those interest and charges were paid also add 8% simple interest per year. That’s what Likely Loans has agreed to do here, so it has agreed to do what I’d normally expect a firm to do in these circumstances.

In this case, Mrs J has been left with an outstanding balance even though she’s been ‘refunded’ all of the interest, fees and charges applied to her loan. This is because the total amount she’s paid to Likely Loans and the third-party debt purchaser her account was sold to, is less than the £2,000.00 she was lent to start with. So while Mrs J has been left with an outstanding balance to repay and she might be unhappy with this, Likely Loans has done what I’d normally expect a lender to do in similar circumstances here.

That said, we do look at each case individually and on its own particular merits. And while we have a general approach to how we might tell a lender to put things right where it provided a loan that it shouldn't have (such as here), we can and will tell it to do something different and/or something more if there's a strong reason to say that's what would be fair and reasonable to do in the circumstances of that individual case.

Mrs J believes that Likely Loans should do more. As I understand it, she wants Likely Loans to refund some funds as she could use them to clear this whole debt and maybe some others. I've thought about what Mrs J has said. But as Mrs J has paid less than the amount she borrowed, Likely Loans hasn't actually charged her anything for having the use of the £2,000.00 she was lent. Furthermore, Mrs J receiving a 'refund' in these circumstances would result in her balance increasing, rather than reducing, as this would have the effect of reducing what she's paid towards the £2,000.00 she was lent.

So while I can understand Mrs J's disappointment at not receiving 'compensation' as a result of her successful complaint, I don't think that Mrs J being unhappy at having a balance to repay, or not being given further funds to reduce other debts are compelling reasons for me to depart from our usual approach here.

Bearing in mind all of this, I'm satisfied that what Likely Loans has already done to put things right for Mrs J – limiting what she has to pay to the £2,000.00 she was lent – is fair and reasonable in all the circumstances of this case and I'm not requiring it to do anything more. So I leave it up to Mrs J to decide whether she wishes to accept Likely Loans' offer.

I appreciate that this will be very disappointing for Mrs J – especially as she feels as though she's entitled to a refund. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

For the reasons I've explained, I'm satisfied that what Oakbrook Finance Limited has already agreed to do to put things right for Mrs J is fair and reasonable in the circumstances of her complaint. And I'm not requiring it to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 7 August 2023.

Jeshen Narayanan
Ombudsman