

The complaint

Miss B complains Lendable Ltd is pursuing her for repayment of a loan she says was advanced in her name but applied for by her ex-partner and that she had no knowledge of. Miss B complains that her ex-partner opened several lines of credit in her name and that she is in financial difficulties as a result of having to repay borrowing she's not had the use of.

In resolution of this complaint Miss B is looking for Lendable to write off the outstanding balance and refund all payments she's made to date.

What happened

Lendable approved a loan of £7,000 with a fee of £410 in June 2020. The loan had monthly repayments of around £270 over 36 months, with a total repayable value of around £9,560.

Miss B complained to Lendable in May 2022. She said she'd been coercively controlled by her ex-partner, who was physically and emotionally abusive, and had opened several lines of credit in her name without her knowledge. Miss B said she'd only been able to face her financial situation in early 2022 with the help of a domestic violence charity, because of the abuse and control she'd suffered, and was concerned she would continue to suffer if she raised concerns while still in the relationship. She's said it was only in early 2022 that she became aware of the full extent of the number of credit accounts and value of lending her ex-partner had obtained in her name.

Lendable issued its final response in June 2022 not upholding Miss B's complaint. It said the checks it completed at the time of the application were in line with its regulatory responsibilities; and that it wasn't aware, or ought reasonably to have been aware, that the lending wasn't entered into by Miss B. It did say within its response that if Miss B could provide documentary evidence about her financial situation, it would consider writing off the fee and interest accrued to date, as well as all future interest, effectively leaving Miss B to repay the £7,000 capital amount lent. Miss B doesn't appear to have provided Lendable with any further information at this point.

Miss B brought her complaint to our service for consideration in July 2022 following Lendable's final response.

Our investigator reviewed Miss B's complaint and didn't uphold it. She said Lendable's checks were fair and reasonable based on the terms of credit being provided; and the information it obtained about Miss B's financial circumstances. She concluded that this loan appeared sustainably affordable for Miss B and that Lendable had made a fair lending decision. She also said that at the point of the lending decision she didn't consider Lendable ought reasonably to have identified that it wasn't Miss B entering into the agreement; and that ultimately, she could see the loan was used to consolidate other lines of credit in Miss B's sole name, suggesting she'd benefitted from the loan.

Miss B didn't accept our investigator's assessment. She acknowledged that while the other debts repaid with this loan were held in her sole name, that these had also been accrued by her ex-partner; and as such she'd received no benefit from this lending. Miss B also pointed

out that she hadn't raised a complaint about the affordability or the sustainability of the loan, but rather that her ex-partner had been coercively controlling her finances; and that she wasn't aware of the extent of the lines of credit opened in her name and therefore her actual financial circumstances.

Our investigator reviewed Miss B's position and confirmed her opinion didn't change. So, as Miss B asked for an ombudsman's decision the complaint's been passed to me to decide.

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.

I'd like to start by thanking Miss B for the level of information she's shared with our service about her personal circumstances. I understand this won't have been easy given what she's gone through – and continues to go through – especially as she's said it's only recently that she's felt able to address the situation. I'd like to assure Miss B I've very carefully considered everything she's told us throughout the history of this complaint, as well as all of the information Lendable has provided.

Our investigator reviewed the affordability and sustainability of this loan. But Miss B has said this isn't the crux of her complaint. Miss B has said her complaint is that she was physically and emotionally abused and coercively controlled by her ex-partner; who she says obtained this loan without her knowledge, and solely benefited from the funds.

While I understand Miss B's position here, for completeness, and as Lendable considered the affordability of the loan, I have also considered this point.

The affordability of the loan

We've set out our approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website; and both Miss B and Lendable are aware of this.

Lendable needed to take reasonable steps to ensure the lending it provided was responsibly lent. The relevant rules, regulations, and guidance at the time of Lendable's lending decision required it to carry out reasonable and proportionate checks. These checks needed to assess Miss B's ability to afford the credit limit being approved and repay it sustainably, without causing her financial difficulties or harm.

There isn't a set list of checks a lender needs to carry out, but they should be proportionate, taking into account things like the type, amount, duration, and total cost of the credit, as well as the borrower's individual circumstances.

And it isn't sufficient for Lendable to just complete proportionate checks – it must also consider the information it obtained from these checks to make a fair lending decision. This includes not lending to someone in financial hardship; and ensuring repayments can be made sustainably without the need to borrow further.

Lendable has said it was provided with Miss B's declared income, a copy of a recent payslip and received read only access to her bank account, allowing it to verify her recent income and expenditure. It has also said it completed a credit check to understand Miss B's existing lines of credit and the management of these accounts. It has said the results of these checks didn't cause it any concerns; and that these proportionate checks led to it making a fair lending decision when concluding this loan would be sustainably affordable for Miss B.

I've carefully considered Lendable's argument, and I'm persuaded its check were reasonable and proportionate in the individual circumstances; and that it went on to fairly assess that this loan would be sustainably affordable across its full term.

I say this because the evidence Lendable obtained at the time of its lending decision meant it verified Miss B's actual financial circumstances rather than using estimates or average data. This meant Lendable understood Miss B's actual financial situation, and therefore had a thorough understanding of her financial position before it lent.

Lendable obtained one months' payslip and received read only access to Miss B's bank account covering around mid-March to early June 2020, enabling it to verify her income and expenditure across a near three-month period. It also completed a credit check to identify Miss B's existing credit commitments and the management of these and recently settled accounts.

Review of the payslip and bank account data Lendable obtained show Miss B's income to average around £2,400 across the three months leading up to this loan. However, Miss B's income fluctuated across these three months, being as low as around £1,800 in one month and as high as around £2,700 in another. Miss B has said these amounts fluctuated as she worked overtime, largely she says to pay for spending by her ex-partner. The one-month payslip Lendable obtained showed Miss B's base salary to be around £1,870.

Lendable used an income figure of around £1,660 in its affordability calculations. This feels reasonable given Miss B's verified base salary.

The read only access Lendable obtained also allowed it to identify Miss B's regular non-discretionary expenditure across the three months leading up to this loan. The information Lendable obtained doesn't show a cumulative balance, it only provides details of the credits and debits on the account. It does appear Miss B was using an unauthorised overdraft facility in the run up to this loan; there are charges for '*emergency borrowing*' in each of the three months, suggesting Miss B was financially stretched in each month. And there is evidence of one returned direct debit in early March 2020, so around three months prior to the loan being provided.

On average Miss B's account shows her regular non-discretionary expenditure totalling around £950. This is made up of payments for food, petrol, charges, subscriptions, and existing lines of credit. Each month there are payments to and from another account in Miss B's name. These payments debiting the account generally total more than £1,000; and in one month more than £1,500. Some have the reference '*Miss B*', and some have the reference '*savings*'. Miss B has said these payments were made by her ex-partner to an account he'd opened in her name, which she had no access to. Miss B has said she's not able to provide us with statements for this account; so, I'm unable to review the status of this other account; or obtain a level of knowledge as to what happened to these funds once they credited this other account.

But I don't think I need to see the statements for this account to reach a fair decision here. I say this because from the information Lendable obtained it could see that in the three months leading up to this loan Miss B's income was significantly higher than the income it was using for its affordability assessment. So, I don't consider it would have been unreasonable for Lendable to have considered Miss B was transferring money into another account, potentially for savings given the payment reference, in the months she received a higher income when she'd worked overtime.

I do consider the '*emergency borrowing*' charges ought to have raised concerns for Lendable, especially as it saw Miss B was transferring large volumes of money out of the account it had sight of. But I must weigh this up against the purpose of this loan, which was detailed as debt consolidation, so Lendable was aware there was a likely strain on Miss B's finances. And it had calculated that by consolidating existing debts Miss B would be in a better financial position each month, as well as changing running credit facilities where minimum payments were largely being made, into one structured loan repayment with an end date for the borrowing to be repaid. So, it was aware there would be a financial benefit to this lending. I think weighing all of this up, together with the knowledge it had that it appeared Miss B was transferring money out of the account in months where she'd received a higher income due to overtime, that overall Lendable would have reasonably reached the same decision to lend.

It therefore follows I consider Lendable's decision to approve this loan on an affordability and sustainability basis was a fair one.

As I've found that Miss B could afford to repay the loan sustainably, and I'm not upholding the complaint on the lending decision, I've gone on to consider the wider circumstances Miss B has made us aware of.

Did Miss B enter into this loan agreement?

Miss B has told us throughout her complaint that she was in a coercive and abusive relationship at the time this loan was approved. She's said it was her ex-partner who applied for the loan without her knowledge; and that she only became aware of it in early 2022 when she was able to regain control of her finances.

I want to start by saying I don't doubt the testimony Miss B has provided us throughout the complaint. But my role here is to weigh up all the evidence – testimony and documentary evidence – to reach a fair and reasonable decision. And where there is missing evidence or inconsistencies, I need to base my findings on what I consider more likely, on balance, to have happened.

Taking this approach and considering all of the available evidence I can't safely conclude Miss B wasn't a knowledgeable party to this loan agreement. I appreciate this will be disappointing for Miss B. Especially as she's said her ex-partner had taken control of her finances and had access to the information provided to Lendable. But I've set out my findings for this below.

As part of the affordability assessment Lendable requested evidence of Miss B's income and expenditure, as I've set out above. This included obtaining a copy of one month's payslip and read only access to her bank account. While I accept it may have been possible for Miss B's partner to grant Lendable access to her bank information without her knowledge, I'm not persuaded the same can be said about her payslip. I say this because the copy of the payslip Lendable has provided is a screen print and I consider it is more likely than not Miss B's partner would not have access to her employer's systems, nor be able to get a screen-print of her payslip without her knowledge. So, I consider, on balance, it more likely this information wouldn't have been able to have been provided to Lendable without Miss B having knowledge.

And while after the event, the monthly payments to the loan were being maintained from Miss B's main bank account, who, coincidentally, was also her employer at the time. So, following the advance, I think it more likely than not Miss B would have seen the payments debiting her account as she has confirmed she had access to this account.

Given the level of personal information Lendable requested and obtained, I don't consider it was, or ought reasonably to have been, aware that Miss B may have been coerced into taking out this loan.

I say this because Lendable had been able to verify Miss B based on the information it had obtained. So, based on the evidence I can't conclude there was any point where it ought reasonably to have been on notice, or had concerns, that this wasn't Miss B entering into this credit agreement under her own free will.

Did Miss B receive a benefit from this lending?

Miss B has said she didn't enter into this agreement or benefit from the funds, so she shouldn't be liable for repayment of the debt. She's therefore said the outstanding loan should be written off and she should be refunded all payments made to date.

To reach this conclusion, I would need to be persuaded that it wasn't Miss B entering into this agreement of her own free will; or that she didn't benefit from the lending. In order to look to obtain some further insight into the use of the loan funds, I asked Miss B to provide information about the debts this loan consolidated; and provide evidence to support she didn't benefit from the loan. I also asked Miss B to provide details of the other debts she's said her ex-partner accrued in her name to provide an overall picture of the full situation and support my investigation and findings.

Miss B has told us that she isn't able to provide us with bank account statements for the second account she says was opened in her name by her ex-partner. Or statements for the credit cards she says were used by her ex-partner which this loan was used to consolidate (which she has confirmed were cards held in her name). She's said due to an unforeseen event she no longer has the paperwork. She has suggested that once the credit card accounts were consolidated with this loan, they were closed so no further debt was accrued.

So, based on the testimony and evidence I currently have (or lack of statement evidence), I can't safely conclude Miss B didn't benefit from this lending.

I say this because the debts consolidated as part of this lending were all in Miss B's sole name. These other lines of credit had been opened for a number of years before this loan was provided in 2020. So even if Miss B could show the debts accrued on them weren't by her or for her benefit, it would be unreasonable to hold Lendable responsible for the spending on Miss B's credit cards because it wasn't transacted with them.

As I can't be satisfied Miss B didn't reasonably benefit from the loan, it therefore follows I can't reasonably conclude that Lendable should look to refund interest and charges, or look to write off any of the outstanding balance.

I know Miss B will be disappointed with this decision. I'd like to reassure her that my decision is in no way intended to doubt or downplay her situation and the testimony she has provided – it's clear Miss B has been through and continues to go through a very difficult time. But based on the testimony and the evidence I currently have; I can't reasonably conclude Lendable need to take any further action in resolution of the complaint.

Within its final response Lendable invited Miss B to provide it with information for it to consider removing all interest and charges added to the loan to date; and freeze all future interest and charges. This would leave Miss B to repay the capital amount lent of £7,000.

As Miss B has told us she has limited information to provide this may be difficult for her to explore with Lendable. But I'd encourage Miss B to contact Lendable directly to discuss the

outstanding balance and possible options it may be able to provide in support of repaying the outstanding balance. I would also remind Lendable of its obligations to treat Miss B fairly and sympathetically when engaging with her and making arrangements to recover the outstanding debt.

My final decision

For the reasons set out above my final decision is that I'm not upholding Miss B's complaint about Lendable Ltd and therefore don't require it to take any further action in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 18 December 2023.

Richard Turner
Ombudsman