

The complaint

Mr R believes PayPal (Europe) Sarl et Cie SA acted irresponsibly by agreeing a revolving credit account he'd applied for.

What happened

On 13 January 2019, Mr R opened a revolving credit account with PayPal. And they provided him with a credit limit of £2,500. The minimum payment on this account was set as the greater of £5 or 2% of the outstanding balance i.e., £48 a month if Mr R used the full £2,400 limit. In June 2019, Mr R entered into a debt management plan ('DMP'), and PayPal defaulted the account in October 2020.

Mr R has complained that PayPal didn't act responsibly when approving the account. He's said that PayPal should've seen from his credit report that he was building up large amounts of debt. He was also unhappy that the default was applied in October 2020, and he thought PayPal should've done this sooner. PayPal didn't agree they'd acted irresponsibly, so Mr R brought his complaint to us for investigation.

While this complaint was under investigation, PayPal removed the default from Mr R's credit file, and started reporting arrears instead. But Mr R wasn't happy with this – he thought the default shouldn't be removed but should've been applied earlier than it was.

Our investigator said that, while PayPal had conducted a credit check, they haven't been able to provide a copy of this. And the copy of his credit file Mr R has supplied showed he owed a substantial amount of money to multiple lenders at the time of the application to PayPal. The investigator thought these would likely have shown on the credit check PayPal performed.

The investigator also said that PayPal had calculated Mr R's affordability based on a declared income range of £2,501 to £3,000, a declared housing cost of £501 to £1,000, and declared living expenses of £501 to £1,000. However, given the large amount of unsecured debt Mr R had, the investigator didn't think this was a reasonable approach. And he thought PayPal should've obtained a more thorough understanding of Mr R's financial circumstances.

Given this the investigator didn't think that PayPal had carried out reasonable and proportionate checks.

The investigator asked Mr R to provide bank statements from the time of his application to PayPal, so he could assess whether the agreement was sustainably affordable. But Mr R couldn't provide these. So, the investigator said it wasn't possible to know what PayPal would've found had they carried out reasonable and proportionate checks. But, as he hadn't seen anything to show that these checks would've shown Mr R couldn't sustainably afford the payments to PayPal, he wasn't persuaded that PayPal had made an unfair lending decision.

With regards to the default, the investigator said we'd usually expect a default to be registered when a customer was between three and six months in arrears. Mr R failed to pay the June 2019 payment, and then went into a DMP where he was paying less than the minimum payment. So, the investigator thought PayPal should've applied the default in November 2019, at which point he would've been more than three months in arrears.

As Mr R didn't agree that the default should've been removed from his credit file, the investigator said that PayPal should reinstate this, with a date no later than November 2019.

Mr R accepted the investigators view, but PayPal said *"we accept the outcome of your findings, however there are elements we disagree with., given the circumstances, we believe we acted in the best interests of [Mr R], by removing his default to provide a satisfactory resolution to his complaint."*

Because PayPal had said they accepted the outcome of the complaint, even though they didn't fully agree with it, the investigator asked them to carry out his recommendations. PayPal said they'd done this, but Mr R said the default still wasn't showing on his credit file. The investigator chased them to do this, but PayPal failed to respond. And didn't take any further action. As such, this matter has been passed to me to make a final decision.

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.

When someone complains about irresponsible and/or unaffordable lending, there are two overarching questions I need to consider in order to decide what's fair and reasonable in all of the circumstances of the complaint. These are:

1. Did PayPal complete reasonable and proportionate checks to satisfy itself that Mr R would be able to repay the credit in a sustainable way?
 - a. if so, did PayPal make a fair lending decision?
 - b. if not, would reasonable and proportionate checks have shown that Mr R could sustainably repay the borrowing?
2. Did PayPal act unfairly or unreasonably in some other way?

And, if I determine that PayPal didn't act fairly and reasonably when considering Mr R's application, I'll also consider what I think is a fair way to put things right.

Did PayPal complete reasonable and proportionate checks to satisfy itself that Mr R would be able to repay the credit in a sustainable way?

There's no set list for what reasonable and proportionate checks are, but I'd expect lenders to consider things such as the amount, duration, and payments of the finance being applied for; as well as the borrowers' personal circumstances at the time of each application.

PayPal have said that, as part of every application for credit they receive, they undertake eligibility, creditworthiness, and affordability checks. And they do this by reviewing the customer's credit file and the information disclosed by the customer, including their monthly income and expenditure. They've said they carried out these standard checks for Mr R.

PayPal have also explained that the information they receive from the credit reference agencies is by way of “a complex data file” which they haven’t been able to provide. However, they’ve said there were no defaults showing on Mr R’s credit file in the 24 months before they approved his application.

Mr R has provided a copy of his credit file, and this shows historic data from the time of his application to PayPal. In January 2019, Mr R was a total of £7,858 overdrawn with four different banks; he had six different revolving credit/credit card accounts, with a total outstanding balance of £8,507; and he owed £30,956 on five different loans, with a combined monthly payment of £305 a month. In addition to this, the credit file shows additional credit commitments that were in force at the time, but for which there is no historic account balance data.

I can see no reason why these credit commitments wouldn’t be reported on the credit check PayPal undertook at the time of Mr R’s application.

In addition to this, PayPal have used Mr R’s declaration of his monthly income and expenditure to check affordability. And this declaration had been by way of a range, not an actual figure - an income of between £2,501 and £3,000 a month, and housing and living expenses totalling between £1,002 and £2,000 a month. In addition to this, the credit check shows that Mr R was paying £305 a month in loan repayments, and 2% of his credit card balances would give him a minimum payment of £170 a month.

As such, Mr R’s declared outgoing and credit commitments were a maximum of £2,475 a month, with a declared income as low as £2,501 a month. Which would only leave Mr R with £76 a month to service his £8,507 overdrafts and cover any discretionary expenditure.

So, based on what I’ve seen and PayPal’s comments, I’m not satisfied that reasonable checks were carried out. And I think that PayPal should’ve carried out more checks to establish Mr R’s actual income and expenditure, to see whether payments to this account were sustainably affordable to him.

Would reasonable and proportionate checks have shown that Mr R would be able to repay the credit in a sustainable way?

In addition to the credit file Mr R has provided, he was asked to provide copies of his bank statements from the period just before the application to PayPal was approved. While I wouldn’t necessarily have expected PayPal to ask for bank statements, I think these statements give a good indication of what PayPal would likely have discovered if they’d asked about Mr R’s income and expenditure at the time.

However, Mr R hasn’t provided this information, nor anything else to show his actual income and expenditure at the time. As such, as Mr R hasn’t been able to show that he couldn’t afford to sustainably make payments to PayPal in January 2019, I’m unable to conclude that reasonable and proportionate checks would’ve shown this.

Did PayPal act unfairly or unreasonably in some other way?

PayPal have confirmed that Mr R entered into a debt management plan in June 2019, and they suspended all fees and charges from that point. They’ve also confirmed that he still owes them £1,892.38, to which he pays £16.89 a month. I’ve noted that this is less than 1% of the outstanding balance, while PayPal’s minimum payment is 2%.

PayPal have also said that they eventually defaulted Mr R’s account in October 2020.

While PayPal haven't provided any statement of accounts, so I can't see exactly what Mr R paid each month, it's not disputed that he missed the June 2019 payment. Nor is it disputed that, once he entered into the DMP, Mr R was (and still is) paying less than the minimum payment. And, based on the current figures, it will take Mr R more than nine years to repay the debt to PayPal.

The Information Commissioners Office says that it would expect a default to be registered by the time a customer is at least three months in arrears, and certainly by the time they were six months in arrears. As Mr R was paying less than half of what he should to PayPal, he would've been at least three months in arrears by November 2019. And, as he was in an agreed long-term DMP, there is no reason why PayPal would be expecting the arrears situation to be resolved quickly.

Given this, I'm in agreement that PayPal should've defaulted Mr R by November 2019, and that they acted unfairly by waiting until October 2020 to do this.

Putting things right

While PayPal have now removed the default from Mr R's credit file, they are also reporting his account as being in arrears. They've also said, on multiple occasions throughout the investigation of this complaint, that they have an obligation to correctly report information to the credit reference agencies.

When looking at a situation like this, I'd expect a financial business to put their customer back in the situation they would've been, had the financial business acted fairly. And this would mean Mr R's credit file would be showing a default in November 2019, and not an defaulted account with arrears.

So, PayPal should correct their reporting on Mr R's credit file to show a default in November 2019.

My final decision

For the reasons explained, I uphold Mr R's complaint. And PayPal (Europe) Sarl et Cie SA should follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 26 September 2023.

Andrew Burford
Ombudsman