DRN-4481937

The complaint

Mr C complains that Fund Ourselves Limited irresponsibly lent to him.

What happened

Following review of this case, I issued a provisional decision on 12 November 2023 as I was inclined to reach a different outcome to the adjudicator. In my provisional decision, I set out a detailed background to this complaint and gave both parties two weeks to respond with further evidence or comments.

The key parts of my provisional decision are outlined below.

"What happened

Fund Ourselves facilitated the lending of a loan for £300 to Mr C. The loan was an instalment loan repayable in four monthly instalments of £142.20.

When Mr C complained to Fund Ourselves about the loan, it didn't uphold his complaint and so he referred it to the Financial Ombudsman Service where it was looked at by one of our adjudicators.

Our adjudicator thought Fund Ourselves did enough checks before lending and those checks showed Mr C could afford the loan, and so she didn't recommend that the complaint be upheld.

Mr C disagreed and asked for an ombudsman's decision.

What I've provisionally 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.

The loan in question here was a short-term instalment loan. We've set out our general approach to complaints about short-term lending - including all of the relevant rules, guidance and good industry practice - on our website.

Fund Ourselves needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr C could repay the loans in a sustainable manner. That is to say Mr C should be able to repay his loan without undue difficulties - while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. These checks could take into

account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Fund Ourselves should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- *The lower a consumer's 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 higher the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income).*

- *The greater the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).*

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable. As there was only one loan lent here, there wasn't an established pattern of borrowing from Fund Ourselves.

Fund Ourselves has said it asked Mr C about his monthly income and expenses before lending. It said Mr C declared his income as £1,300 and his monthly expenses as £345.

Fund Ourselves has also provided the results of its search into Mr C's credit history at the time of the loan. Fund Ourselves performed an electronic verification of Mr C's declared income, this suggested the income he declared was broadly accurate.

From what I've seen, I don't think Fund Ourselves reacted to the results of some its checks. The results of Fund Ourselves credit search showed Mr C had at least four other short-term loans outstanding and that he was paying a number of other lenders including other high-cost credit lenders.

The results of that search suggest Mr C was paying over £2,000 towards his credit commitment. This is significantly more than his declared income and meant he didn't have the capacity to afford the repayments of this loan as he was already financially overstretched.

It was obvious Mr C's outgoings were higher than what he declared, and his credit file suggested he was reliant on credit. Fund Ourselves would have seen this and in the circumstances, it shouldn't have lent to Mr C as he couldn't sustainably afford further credit.

In the circumstances, Fund Ourselves shouldn't have approved the credit for Mr C. As it has approved credit when it shouldn't have it needs to put things right."

The time for responses has now passed and neither party has provided further comments and evidence.

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.

After reconsidering all the evidence and arguments in this case, I see no reason to depart from the conclusions reached in my provisional decision.

Fund Ourselves approved credit for Mr C when it ought to have known he couldn't afford to repay it without suffering further financial detriment.

Putting things right

In deciding what redress Fund Ourselves should fairly pay in this case I've thought about what might have happened had it not approved this credit for Mr C, as I'm satisfied it ought to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this credit Mr C may have simply left matters there, not attempting to obtain the funds from elsewhere. If this wasn't a viable option, he may have looked to borrow the funds from a friend or relative – assuming that was even possible. Or, he may have decided to approach a third-party lender with the same application, or indeed a different application (i.e. for more or less borrowing). But even if he had done that, the information that would have been available to such a lender and how they would (or ought to have) treated an application which may or may not have been the same is impossible to now accurately reconstruct. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Mr C in a compliant way at this time.

Having thought about all of these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Mr C would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Fund Ourselves' liability in this case for what I'm satisfied it has done wrong and should put right.

To put things right, Fund Ourselves should:

- Refund all interest and charges Mr C paid on loan.

- Pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement†.

- Remove any negative information about the loan from Mr C's credit file.

† HM Revenue & Customs requires Fund Ourselves to take off tax from this interest. Fund Ourselves must give Mr C a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons given above, I uphold Mr C's complaint and direct Fund Ourselves Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 2 January 2024.

Oyetola Oduola
Ombudsman