

The complaint

Mr S complains that My Finance Club Limited trading as Ondal (“MFC”) gave him loans without gathering sufficient evidence of his financial situation.

What happened

A summary of Mr S’s borrowing can be found below.

loan number	loan amount	agreement date	repayment date	term (number of days)	expected settlement value
1	£300.00	11/03/2023	23/03/2023	38	£391.20
2	£300.00	12/04/2023	02/10/2023	28	£367.20

Mr S repaid loan 1 earlier than planned but had some problems repaying loan 2.

MFC considered Mr S’s complaint and didn’t uphold it, saying it granted the loans because they appeared affordable based on its checks. Unhappy with the response, Mr S referred the complaint to the Financial Ombudsman.

In the investigator’s assessment, he didn’t uphold the complaint because he concluded the checks that MFC carried out showed it that the loans were likely affordable.

Mr S didn’t agree with the outcome saying MFC didn’t act responsibly when it approved loan 2 so quickly after the first loan had been repaid and this was a sign that he was reliant on this type of lending.

As no agreement has been reached, the case has been passed to me for a 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.

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. I’ve taken these into account when considering this complaint.

MFC had to assess the lending to check if Mr S 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. MFC’s checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr S’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 MFC should have done more to establish that any lending was sustainable for Mr S. These factors include:

- Mr S 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 S 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 S 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 S. The investigator didn't consider this applied in Mr S's case and I would agree, given there were only two loans.

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

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

Before the loans were approved, Mr S declared he worked full time and he earned £3,000 per month. MFC also says Mr S's income was electronically verified which suggested the income he had declared was likely to be accurate. For these loans I don't think MFC needed to have carried out any further checks into Mr S's income.

In terms of monthly expenditure, Mr S provided details about his expenditure across several different headings such as, utilities, 'other', food and other credit commitments– to name a few. MFC says Mr S's outgoings came to £975 for both loans. Therefore, based on the information it had to hand, the loans looked affordable for Mr S.

Although the income and expenditure figures declared were the same for each loan, I don't think that there is anything unusual about that given loan 2 was taken out around 3 weeks after the first loan had been repaid.

Before each loan, MFC also carried out a credit search and it provided the results it received from the credit reference agency. It is worth saying here that although MFC carried out a credit search, there wasn't a regulatory requirement to do one, let alone one to a specific standard. But what MFC couldn't do is carry out a credit search and then not react to the to the information it received – if necessary.

I am satisfied that the credit check results wouldn't have been a concern for MFC and the results were the effectively same for both loans. Taking account of the credit search results there wasn't any indication that Mr S would likely to struggle to repay the MFC loans. It knew that Mr S had outstanding loans credit cards and hire purchase agreements. All of these accounts were up to date with no indication that Mr S was or likely struggling to meet his existing credit repayments. This has led me to conclude that the credit searches on their own wouldn't be enough to have prompted further, more in-depth checks, or to decline the loan application.

I have considered what Mr S has said about taking loan 2 fairly quickly after loan 1 was repaid. But, in my view, given the loan value, the fact that no pattern could yet be

established of quickly taking loans, loan 1 was repaid much more quickly than planned and the checks MFC carried out were proportionate and demonstrated the loan was affordable. I'm not persuaded, given all of these factors, that merely taking a second loan close to the repayment of the first, is enough to have warranted MFC to either carry out further checks or to have declined his application.

Overall, given there were only two loans, it was reasonable for MFC to have relied on the information that Mr S provided about his income and expenditure and the results of the additional checks it conducted. In my view, the checks MFC carried out were proportionate and showed Mr S should be able to afford his repayments. There also wasn't anything else to suggest either loan would be unaffordable or unsustainable for him.

I've you've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think MFC lent irresponsibly to Mr S or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

I do not uphold Mr S's complaint about the loans.

My final decision

For the reasons set out above, I'm not upholding Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 September 2024.

Robert Walker
Ombudsman