

The complaint

Mrs P complains that Harvey & Thompson Limited lent irresponsibly to her.

What happened

Between October 2011 and March 2013, Mrs P borrowed seven loans from Harvey & Thompson. The lending history is set out below:

Loan	Date Taken	Date Repaid	Instalments	Amount	Max repayment
1	19/10/2011	31/10/2011	1	£100.00	£113.00
2	28/10/2011	31/01/2012	1	£250.00	£298.25
3	09/02/2012	29/02/2012	1	£200.00	£220.00
4	22/05/2012	29/06/2012	1	£350.00	£369.25
5	22/08/2012	28/09/2012	1	£100.00	£115.88
6	14/02/2013	28/02/2013	1	£100.00	£109.94
7	28/03/2013	29/04/2013	1	£250.00	£299.63

In his view letter, our adjudicator said that loan 2 had been repaid in November 2011. However, the information provided by Harvey & Thompson indicates that this loan may have been '*rolled over*' on two occasions before being repaid in January 2012.

Our adjudicator thought the complaint should have been upheld in respect of loans 4 to 7. He thought it should have been clear by that point that Mrs P was struggling financially and spending a lot on online gambling websites.

Harvey & Thompson disagreed with that view. It made reference to the time lapse between the loans and also said that checks as to gambling transactions wouldn't have been undertaken when Mrs P applied for this borrowing.

As the parties are not in agreement with our adjudicator, the 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.

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.

Harvey and Thompson 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 Mrs P could repay the loans in a sustainable manner. 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 Harvey & Thompson 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).

I think that it is important for me to start by saying that Harvey & Thompson was required to establish whether Mrs P could sustainably repay her loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the relevant regulations define sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mrs P's complaint. Having done so, I think our adjudicator was right when he said that Harvey & Thompson shouldn't have agreed to lend loans 4 to 7.

Neither party disagreed with what our adjudicator said in respect of loans 1 to 3. On that basis, I haven't considered further whether Harvey & Thompson was irresponsible to agree those loans. I have kept the circumstances in mind though when looking at loans 4 to 7.

By the time Mrs P applied for loan 4, I think Harvey & Thompson should have been on notice that she was struggling financially. I say this because it knew she had ostensibly rolled over her repayments for loan 2 on two occasions and the amount she was borrowing had more

than trebled in the space of three months – it had increased from £100 to £350 during that time.

Given that Harvey & Thompson should have been appreciated Mrs P may have been in financial trouble when she applied for loan 4, I think it should have undertaken a full review of her financial circumstances. Had that review been undertaken, I think Harvey & Thompson would have seen that Mrs P was spending significant sums each month on online betting sites. I think it would have been very clear that loan 4 was not sustainably affordable. Given what have highlighted above, I think Harvey & Thompson should have undertaken similar checks in respect of loans 5 to 7. And for the same reasons, I think it would have seen that Mrs P could not repay these loans without borrowing further.

I have thought about what Harvey & Thompson said about there being gaps in between the borrowing. I don't view those gaps as sufficient to indicate a new chain of borrowing. So for effectively the same reasons as set out by our adjudicator, I am upholding this complaint in respect of loans 4 to 7. Harvey & Thompson will need to take action to put things right as set out below.

Putting things right

Harvey & Thompson must:

- refund all interest and charges Mrs P paid on loans 4 to 7;
- 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 loans 4 to 7 from Mrs P's credit file. I appreciate more than six years have passed since these loans were repaid, so it may well be that no information about these loans remains on the credit file.

† HM Revenue & Customs requires Harvey & Thompson to take off tax from this interest. Harvey & Thompson must give Mrs P a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons given above, I'm partly upholding this complaint. Harvey & Thompson Limited will need to put things right as set out above. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 5 October 2020.

Nicola Bowes
Ombudsman