

The complaint

Ms R has complained about a number of loans she took out through a company called Ferratum UK Limited. Ms R says she was lent to irresponsibly and the loans caused her financial problems.

Background

We now know that Ms R took out 11 instalment loans from Ferratum between November 2016 and February 2018. I've enclosed a summary of Ms R's *first 7* loans, based on the information it provided to us.

Loan	Date Taken Out	Date Repaid	Type of Loan	Amount
1	19/11/2016	29/11/2016	Payday	£200
2	07/12/2016	12/12/2016	Payday	£300
3	04/01/2017	19/01/2017	Payday	£200
4	20/01/2017	02/02/2017	Payday	£50
5	23/02/2017	01/03/2017	Payday	£50
6	30/06/2017	12/07/2017	Payday	£800
7	28/07/2017	25/08/2017	Payday	£200

One of our adjudicators looked into the complaint and said they thought it should be upheld from the point of loan number 5 onwards. Ferratum didn't reply, so the complaint has come to me for an ombudsman's 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. I've followed this approach when thinking about Ms R's complaint.

Ferratum 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 that Ms R could repay all the loans she was given in a sustainable manner. These checks ought to have taken into account a range of different factors, such as the amounts being lent, the total 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. However, certain factors might point to the fact that Ferratum should have fairly and reasonably done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a customer'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 or pattern of lending itself clearly demonstrates that the lending was unsustainable. So, Ferratum was required to establish whether Ms R could sustainably repay the loans; not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course, the loan being affordable on this basis *might* be an indication that Ms R could sustainably make the repayments. But it doesn't automatically follow that 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. So, it follows that a lender should realise, or it ought to have fairly and reasonably realised, that a borrower won't be able to make their repayments sustainably if they are unlikely to be able to make them without borrowing further.

Ferratum told us it carried out certain affordability and credit checks before agreeing to lend to Ms R. I've thought about this and I've also looked at the overall pattern of lending history with a view to seeing if there was a point at which Ferratum should reasonably have seen that further lending was unsustainable, or otherwise harmful. I've considered whether, at some point, Ferratum should have realised that it shouldn't have provided any further loans.

Bearing in mind what I've said above about the length of the lending relationship, I think the checks which Ferratum most likely carried out for loan numbers 1 – 4 appear to have been proportionate. I think the levels of checks, together with the income and expenditure details provided by Ms R, would have made those particular loans appear affordable for her.

However, I think from the point of loan 5 onwards in this case things would have looked different and therefore required a more thorough and responsible approach. For loan 5, for example, Ferratum ought to have been aware this was her fifth such loan in 3 months. There's no evidence Ferratum altered its approach at the point of loan 5 to look more thoroughly at Ms R's financial situation. I think if it had done this it would have shown she was having trouble managing her money and using on-line gambling sites very regularly. So I think it was irresponsible to lend to Ms R at the point of loan 5 onwards.

In addition to this, from the point of loan 7 onwards, there was an additional and clear pattern of repeated lending evident in my view. Loan 7 was her seventh such loan in 8 months. So there was an obvious dependency on high-interest, short-term lending evidenced by this.

So I'm also upholding Ms R's complaint in respect of loans 7 - 11 as well. Ferratum repeatedly lent to Ms R in an unsustainable manner because:

- these loans had the effect of unfairly prolonging her indebtedness by allowing her to take expensive credit intended for short-term use, over an extended time period; and
- the length of time over which Ms R borrowed was likely to have had negative implications on her ability to access mainstream credit and so kept her in the market for these high-cost loans.

Putting things right

- refund all interest and charges Ms R paid on loans 5 - 11;
- pay interest of 8% simple a year on any refunded interest and charges on these from the date they were paid (if they were) to the date of settlement†;
- remove any negative information about loans 5 and 6 from Ms R's credit file;
- the number of loans taken from loan 7 onwards means any information recorded about them is adverse. So all entries about loans 7 - 11 should be completely removed from Ms R's credit file.

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

My final decision

For the reasons given, I partly uphold Ms R's complaint. Ferratum UK Limited should put things right for Ms R as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 25 August 2020.

Michael Campbell
Ombudsman