

## The complaint

Ms W complains Harvey & Thompson Limited trading as H&T Pawnbrokers (“H&T”) lent to her irresponsibly. She also says that the application of daily interest to her lending has made it impossible to repay her loan.

## What happened

Ms W took two instalment loans between June 2016 and May 2017. I’ve included some of the information we’ve received about these loans in the table below.

Loan Number	Loan Amount	Date of loan	Actual Repayment Date
1	£500	08/06/2016	25/05/2017
2	£1,894.73	25/05/2017	Outstanding

Based on the statement of account provided to us from H&T, as of November 2020 an outstanding balance remained on the final loan.

Our adjudicator didn’t think it was wrong for H&T to have granted the loans. He thought the checks H&T completed went far enough and the loans would have seemed affordable and sustainable. He also recognised that there was an outstanding balance to pay for loan 2 and reminded H&T that it should treat Ms W fairly if she was having financial difficulties.

Ms W disagreed with the adjudicator’s findings. In summary, she has said that:

- H&T indicated the repayments for both loans would be over a total of 30 months, but she has been making repayments for the last 60 months with an outstanding balance still to pay;
- the second loan was only supposed to have been paid over 13 months, but she has been paying the loan for 48 months to date;
- the length of the lending is completely irresponsible;
- H&T charge daily interest which is making it impossible to clear the outstanding debt;
- she was offered the second loan to pay off the first loan because H&T knew she was struggling financially to make the repayments;
- as a single mother and only working part time, it is extremely difficult to make the repayments over a long period of time.
- the total amount she is paying compared to the principal lent is irresponsible lending and unacceptable.

H&T didn’t disagree with the adjudicator’s findings, but following our assessment and in connection with the repayment of loan 2, H&T has said:

- Ms W contacted them in December 2018 and then agreed to set up reduced payments;
- Ms W was happy to make the reduced repayment and its notes don’t mention any discussion about interest;

- payments under the plan were successful until April 2020 – at this point it agreed a Covid related temporary suspension of repayments before they started again in July 2020;
- affordability of the reduced payment agreed '*would have been established as per our usual process*';
- interest was suspended in August 2019.

As no agreement has been reached, the case has been passed to me for 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 irresponsible lending - including all the relevant rules, guidance and good industry practice - on our website.

H&T had to assess the lending to check if Ms W could afford to pay back the amounts she'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. H&T'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 Ms W'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 H&T should have done more to establish that any lending was sustainable for Ms W. These factors include:

- Ms W 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);
- Ms W 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);
- Ms W 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 Ms W.

H&T was required to establish whether Ms W could *sustainably* repay her instalment loans – not just whether she technically had enough money to make her repayments. Having enough money to make the repayments could of course be an indicator that Ms W was able to repay her loans sustainably. But it doesn't automatically follow that this is the case.

The Financial Conduct Authority (the industry regulatory) in the Consumer Credit Sourcebook ("CONC") states payments are sustainable if they are made without undue difficulties and in particular, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

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

Loan 1 (£500) was due to be repaid through 17 monthly instalments of around £56. Ms W provided evidence of her monthly income of £962.24 and said her monthly expenditure for travel phone, housekeeping, utilities/council tax and other expenditure was £242.

Loan 2 (£1,894.73) was lent the same day that loan 1 was repaid and due to be repaid over 34 monthly instalments of around £123. I appreciate Ms W says the term ought to have been 13 months, but I think that was a typo in the final response letter. The credit agreement I've seen does show that she had to make 34 payments of £122.92. By this point, Ms W's income was verified through a bank statement to be around £1,234 and there didn't appear to be any significant change in her declared expenses.

H&T also carried out a credit check for each loan which didn't seem to reveal any significant adverse information when loan 1 was lent. But, there was an active judgement for an outstanding debt when loan 2 was lent which appears to have arisen after loan 1 was lent.

Following completion of the checks, from what it could see, H&T felt it prudent to add a safety margin to the expenditure Ms W had declared when assessing the affordability of the loans. So, for example, for loan 1 it felt that Ms W had around £326 a month disposable income. But using this increased expenditure and considering Ms W's verified income, the repayment of the loans appeared to be affordable and sustainable.

Overall, considering the level of lending, the terms over which the loans were being lent and the results of the credit checks, I think H&T needed to gain a full understanding of Ms W's actual financial position to ensure the loans were affordable and able to be repaid sustainably. This could've been done in several ways, such as asking for evidence of outgoings, for example through bank statements. This might've helped verify all the information provided and revealed whether there was any other information that H&T might've needed to consider about Ms W's general financial position.

I appreciate H&T did ask Ms W to provide some bank statements, the ones it received though don't seem to cover whole months. In my view, these statements don't therefore necessarily show the full extent of her financial situation.

Ms W has provided this Service with bank statements, but these have been redacted apart from the H&T transactions. She has also not been able to provide a copy of her credit file which might've revealed information about her finances when H&T lent.

So, whilst I don't think H&T completed enough checks, I've not seen enough evidence to suggest further checks would've made a difference. So, I can't fairly say the loans were likely to have been unaffordable and unsustainable had checks been properly completed.

As this is the case, I don't think H&T was wrong to lend either loan.

Ms W has also said that H&T indicated the term of the two loans together would be 30 months. But I've not seen persuasive evidence of this - the term of each loan and the number of monthly instalments payable (as set out above) are set out in the credit agreements.

So, I don't think I can reasonably say Ms W was most likely misled about the term of her loans.

### *repayment difficulties*

Lenders are required to treat their customers fairly and with '*forbearance and due consideration*' when they are experiencing financial difficulties. For example, a lender might freeze interest, defer repayments or reduce them to an affordable level to assist a customer to repay their loan.

When Ms W contacted H&T in December 2018, she explained that she was on maternity leave and that her wages had halved. So, understandably, she mentioned being unable to afford the regular monthly payment for loan 2 of around £123.

As a result, H&T agreed to accept a reduced regular payment of around £61. Repayments appear to have continued at this level until this Service received the complaint, although H&T also agreed a repayment break between April and June 2020 in line with regulatory guidance about Covid-19.

I can also see that H&T stopped adding interest to loan 2 in August 2019. What this means is that Ms W will only repay the total amount payable for this loan in line with the credit agreement. So, whilst I appreciate Ms W's concerns about the way interest is added to her loan, the loan is taking longer to repay than contractually scheduled because of the lower payments that are being made. H&T doesn't appear to have added additional interest to her loan unfairly or to the extent that the loan can't be repaid where payments are maintained.

So, overall, I think, in the circumstances of this case, H&T has taken a reasonable approach to Ms W's financial difficulties through several measures to assist her to repay the loan. I would though remind H&T it should continue to treat Ms W fairly if the loan remains outstanding.

### **My final decision**

For the reasons I've explained above, I'm not upholding Ms W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 3 August 2021.

Robert Walker  
**Ombudsman**