

The complaint

Miss T complains that Harvey & Thompson Limited (H&T) failed to do several things in relation to a loan approved in April 2014. These are listed in the next section.

Later Miss T also complained that H&T had lent to her irresponsibly.

What happened

I did a detailed provisional decision on 21 July 2021. The '*what happened*' section of it included a detailed history of the sequence of events. And my provisional decision findings are set out in full later. Here I am summarising the current position.

My provisional decision said:

- I was planning not to uphold the complaint about irresponsible lending;
- I did not think that Miss T had been mis-led on the agreement term length;
- I did think that Miss T owed H&T money, but that the balance ought to be recalculated to a certain date (end March 2015);
- I acknowledged H&T's agreement to back-date the default to March 2015;
- I thought that the written apology Miss T was asking for was for H&T as a matter of customer service and it was not for me to direct H&T to do that;
- I did not think it was right for Miss T to be compensated for '*financial and emotional turmoil*' when for at least five years, according to Miss T, the debt had not been visible on her credit file and she had not been pursued by H&T at all. And so, for at least five years this had not had any impact on her;
- I did think that the lack of communication after January 2020 by H&T had been poor and I said I was planning to award Miss T some compensation for it for distress and inconvenience;
- I did think that Miss T's January 2020 contact with one of H&T's representatives was clear enough to have precipitated a complaint and the delay in dealing with it had caused distress and inconvenience. In addition, having investigated the complaint it failed to address the correct complaint points in its final response letter. And I said that I was planning to award compensation;
- I thought that H&T had complied with what it said it would do which was not to apply any more interest on the account. But Miss T's expectation that her account would be '*suspended*' while the complaint was ongoing may not have been what she expected or understood it to be. Late payment markers were added all through 2020. I said that the back-dated default which would lead to total removal of the loan was likely to cure that going forward and so there was not much more I planned to say on those points;
- I gave several reasons as to why I was not planning to uphold Miss T's claim that H&T's actions or failure to act had led to a declined joint mortgage application. I deal with this again later in the decision as new information has been sent to us;
- Miss T's claim that a recent fire at her home leading to her need to have to apply for additional credit which had been declined was too remote to uphold against H&T.

I ended my provisional decision saying that I was planning to uphold Miss T's complaint in part and I was planning to direct that H&T does as follows:

- back-date the default to 31 March 2015 – this would have the effect of removing the loan from Miss T's credit file; and
- recalculate the interest added to the account up to 31 March 2015; and
- considering the repayments made in 2014, recalculate what Miss T owes H&T which should be less than the balance on the account now; and
- treat Miss T in a positive and sympathetic manner when approaching her about the repayment of the outstanding sum.

I said that I was planning to make a financial award of £250 to reflect the lack of and/or poor communication since January 2020, both in relation to the information she was told she'd be sent and, in my view, the failure to treat this as a complaint in January 2020. And when issuing the FRL it was inadequate as it did not address her complaint points. These failures and delays had caused Miss T inconvenience and stress.

And I went on to say that I was planning to direct that the £250 financial award was to be paid to Miss T directly and not to be used to reduce any owed to H&T. If Miss T chose to use that to reduce the debt to H&T, then it would be a matter for her.

How each of the parties responded

Miss T has responded in relation to the mortgage application points. She has sent to us some additional information which she has asked that I treat as confidential. She continues to include in her complaint that the failed mortgage application was due to the H&T credit reporting on her file.

H&T's representative has responded to say '*Although we are content to accept the overall decision based on the fact that we wish the matter to be resolved in the short term we are not in agreement with the comments made relating to the progress of the customer's initial contact with us.*'

H&T goes on to explain that

- Miss T's contact in January 2020 was a request for a subject access request (SAR);
- there was no formal complaint at that point;
- H&T has conceded that its FRL did not address the credit file parts of the complaint
- it says that sending an FRL addressing the affordability review meant that it was confirming with Miss T the loan existed;
- It queries why I thought that the FRL may not have been sent and/or received by Miss T;
- It queries why I want the financial award to be paid to Miss T directly rather than being used to reduce the outstanding balance on the loan.

In my final decision I have reviewed the complaint bearing in mind all the points raised by Miss T and H&T.

I am aware that H&T has accepted my provisional decision overall as it is keen to resolve the matter. And there are many elements of my provisional decision findings about which Miss T and H&T have not responded, and so I interpret that to mean that they appear not to be disputed now. So, I will proceed as if they have been accepted by the parties.

Here I set out the background details and the provisional findings I made so that this final decision has context. It is in a smaller text size to differentiate it.

My provisional decision dated 21 July 2021

What happened

H&T has records, of the approved loan in August 2014 for £300, including a copy credit agreement and application screenshots. Miss T had applied for £1,000 but H&T approved it for £300. It was due to be repaid over 24 months at just under £30 a month. The total amount to repay would have been just over £711.

Miss T's complaint form to this Service revealed that she wanted to complain about these points:

- Miss T describes finding out about the loan in January 2020. She thought it had been repaid. After speaking to a H&T contact in January 2020 she left the call feeling *'confused, alarmed, and with a feeling of being treated unfairly to pay a loan back that I thought I had already paid, with no evidence from H & T Pawnbrokers to suggest otherwise, along with interest that has been growing for six years.'*
- Her credit score altered in January 2020 when H&T's *'late payment'* markers appeared next to the loan with an outstanding balance of £1,079, having not been there or seen by Miss T before. This has caused worry and distress;
- Miss T thought that it was likely she'd paid that loan off and these records were wrong and H&T was bullying her to repay it

Miss T sent to us email evidence to show that she had spoken to H&T in January 2020 and this was a response by email she received:

*"I have just spoke [sic] to my manager, we can get across the contract to you by email within the next 20 minutes if you wish to see that?
Also I have requested that you get to see all your notes and prove [sic] of calls etc.
This however could take up to a month which we can also sent across to you by email, would this also be okay by o be okay to send across to you by email?"*

Miss T's reply to H&T was:

"I'm happy to wait for the evidence but I need to still understand what happens to my account in the meanwhile as I don't want to further interest rates to pile [sic], or be documented as a period where I didn't pay without first establishing what should be the correct ground of payment or otherwise is.

In the meanwhile I'll begin my discussions with the Financial Ombudsman."

The reply from H&T the same day was that the evidence would be sent to her, it may take up to a month and no further interest would be added to her account.

I will return to this later in the main body of the decision. Here I am setting out the background.

In February 2020 when Miss T brought her complaint to this Service she wanted H&T to stop asking her for the money, to close the account, to have the loan removed from her personal credit file *'and be marked as cleared'*, and for her contact details to be removed from H&T's records.

Miss T thought that she had registered a complaint with H&T when she had been speaking to the collections department in January 2020. One of the adjudicators at this Service explained that H&T had 8 weeks to investigate and reply. In May 2020 Miss T had not heard anything. In August 2020 Miss T explained to us that she had been having telephone conversations with H&T representatives.

On 12 August 2020 Miss T emailed us to say that she had not received anything from H&T. It seems from piecing together information received from H&T that it did not treat her January 2020

request as a complaint, and it had treated it as a Subject Access Request (SAR). Later, H&T altered its explanation and said it had received an indication Miss T was going to make a SAR request but she never did. And it used that as its explanation as to why nothing was done in January 2020. I'll come back to this in the main part of the decision.

In August 2020 Miss T told us that her credit file now showed missed payments for April to August 2020 which had not assisted her credit score. Miss T expressed concern that this could develop into a 'default' situation which would remain on her credit file for six years. Miss T said that she had patiently waited for the evidence since January 2020 and received nothing and said

"I feel really stuck and bullied into the idea of paying an unfair debt just to make it go away. I don't think is the correct way of a payday provider to treat a cooperating individual."

In early September 2020, this Service wrote to H&T, sent it Miss T's detailed complaint form saying that H&T needed to send to us its file so that we could start an investigation. H&T said it had no record of any complaint and wanted time to investigate – effectively asking for the 8 weeks again. H&T said:

*"According to our records the only recent interaction we have had with this customer is to provide the response to a SAR.
We would like the opportunity to respond to her complaint before this is dealt with by you"*

Miss T sent to us two copies of extracts from two different Credit Reference Agency (CRA) reports she had about her credit file. One looks to have been from September 2020 and shows that

- she had one defaulted account which was not referred to as being H&T and so must have been a different account; and
- in December 2019 two debt collector companies had removed two accounts from her report. That fits with Miss T's explanation that she has been trying to 'clean up' her credit file.

The other extract of a report sent by Miss T showed that the H&T loan was in arrears, the balance to pay was £1,079, that payments in 2014 were on time and that in 2015 they were classified as 'missed payments' and from 2016 'No Data'. A note on that CRA report says 'Missed payments have a high impact on your credit score and stay on your report for 6 years.'

Miss T's explanations remained that she did recall the loan as cash-in-hand in a branch, but that it was paid off soon afterwards. However, she was not able to provide anything, such as bank statements, to show the repayments were made and that she had paid it off.

In October 2020 Miss T wrote to say that a joint mortgage application had been declined and she felt that it was the H&T arrears on her credit file that had been the cause. Miss T has not sent to us any evidence of this declined mortgage.

I refer to these CRA extracts of information later in the main body of the decision.

H&T sent to us its file of the documents it had plus a copy of the FRL it had issued following its investigation which was dated 25 November 2020. It had been emailed directly to Miss T. I have seen that the emails Miss T had received from H&T in January 2020 had used that same email address to which the FRL had been sent, but no screenshot or proof of it being sent directly to Miss T has been forwarded to us by H&T.

H&T had already received a copy of Miss T's complaint form on 4 September 2020 which detailed her complaint points. Despite this, the FRL dated November 2020 addressed the irresponsible lending element of the complaint which Miss T had not raised. No other complaint points were addressed.

In that FRL H&T said it did not think that it had lent to her irresponsibly. But H&T also added in a covering email to this Service that if Miss T's complaint was that she did not owe H&T money then its copy credit agreement and the H&T Statement of Account demonstrated that she did.

The other documents sent to us by H&T included screenshots of the loan application process in 2014, the credit agreements and an extract from a credit file search it had carried out at the time of the application. Miss T had signed a Direct Debit instruction. From that I can see her bank sort code and account number used at the time.

H&T also sent to us a Statement of Account showing that three payments had been made by Miss T. One was a Direct Debit payment, one was an attempted Direct Debit payment which 'bounced back' and it looks like Miss T paid for that with her debit or credit card plus a penalty fee of £15. And a third was through the Direct Debit instruction again on 28 September 2014. After that no further payments registered to the account and interest accrued for 16 months until 31 December 2015 when the balance stood at £1,078.44.

In December 2020, Miss T was concerned as she had not heard from H&T, and the indication that her account would be '*frozen*' while the complaint was sorted out did not appear to have been done as '*late payments*' were being entered against that account on her credit file each month for most of 2020. One of our adjudicators explained a lot to her on the telephone and forwarded to Miss T the FRL copy we had received plus the documents H&T had sent to us relating to the application process and Statement of account. Miss T had not received that FRL from H&T.

By January 2021, the complaint had been with this Service for a year and so Miss T clarified her complaint points on the telephone with our adjudicator, and then wrote to us to reiterate her original complaint points, with some additions:

- she'd not heard from H&T between 2014 until the beginning of 2020 until she called H&T to query the entry on her credit file, during which time the debt had slipped from her memory; and
- the failure by H&T to send her anything since contacting them in January 2020; and
- the failure to treat the account as suspended as she says she was promised would happen in October 2020; and
- that the original loan agreement was for a low value loan of £300 but spread over 24 months. She says that this seems suspicious. Miss T said that she thinks it was '*...an unprofessional attempt to mislead me into repaying more than [sic] I should.*'
- the continuing damage to her credit file during 2020 which resulted in a failed mortgage application with her partner.

She outlined again what she wanted to achieve following the complaint resolution:

- the £300 settled and closed
- an amendment to her credit file
- compensation for the financial and emotional turmoil;
- written apology for their lack of professionalism, financial and emotional distress and poor communication H&T has inflicted on her.

This was all communicated to H&T with requests for additional information. Our adjudicator asked Miss T for more information as well.

H&T replied to us and explained, but has not sent any evidence, to say that a repayment plan was set up in or around 2015 '*...and numerous attempts made to contact the customer and there was evidence the customer was trying to avoid contact.*'

H&T also said: '*...the customer indicated, in January 2020, that she was considering submitting a SAR but can find no trace of it being submitted.*'

H&T also said that she was in arrears in August 2014 and was put onto a repayment plan at that stage. I'll come back to this in the main part of the decision.

Our adjudicator came to an opinion on the complaint points and upheld it in part. Her view in April 2021 was:

- that the loan was not lent irresponsibly – H&T appeared to have carried out proportionate checks at the time and it was the only loan Miss T had with it;
- that Miss T's complaint about it being a 24 month agreement was not upheld as its likely Miss T knew at the time it was issued and if she had any queries she could have raised them then; and
- she did think that there was an outstanding balance on the loan for Miss T to repay; and
- H&T did seem to leave the account dormant and it had not sent any evidence to show otherwise; and
- H&T had not pursued Miss T for the outstanding balance for several years and it had not sent evidence to show otherwise; and
- Using the industry guidance and practice in relation to a lender's approach to arrears, she felt that the loan should have been marked as having been in default by 31 March 2015. Had that been done by H&T, she thought that would have led to it having been removed from Miss T's credit file by the date our adjudicator was writing that view (six years having passed); and
- In relation to the part of Miss T's complaint about how her queries had been dealt with by H&T since January 2020, our adjudicator did think that it had caused Miss T inconvenience, but not enough to warrant compensation for it.

After some correspondence with H&T, it agreed to treat the situation as if the default had been registered on 31 March 2015 and therefore it would have disappeared from her credit file by now.

Miss T did not agree and sent submissions as to why she felt that she was due to receive more and gave reasons for it. I do not set these out here again as I have taken time to document the development of this complaint in detail. I note that what Miss T says in her recent email broadly covers all the points she's raised before. One new point is that her time spent in temporary accommodation following a fire at her home in March 2021 meant that she needed to obtain credit, but she could not due to the adverse entries on her credit file on the H&T loan. Miss T says that she has had to exhaust her savings and so requires compensation for that.

I assure Miss T have read all her submissions carefully.

The complaint remained unresolved and it was passed to me to decide.

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

I've broken up this part of my decision into subheadings so that both parties can see I have dealt with each part of Miss T's complaint.

Irresponsible lending and term length

We have set out our general approach to complaints about high cost lending - including all the relevant rules, guidance and good industry practice - on our website. Before lending money to a consumer a lender should take proportionate steps to understand whether the consumer will be able to repay what they are borrowing in a sustainable manner without it adversely impacting on their financial situation.

A lender should gather enough information for it to be able to make an informed decision on the lending. Although the guidance and rules themselves did not set out compulsory checks, they did list a number of things a lender could take into account before agreeing to lend. The key element was that any checks needed to be proportionate and had to take into account a number of different things, including how much was being lent and when the sum being borrowed was due to be repaid.

Miss T has told us that she recalls applying for this loan in person in a store, and the application documents do show that H&T had recorded her photograph so that seems likely. H&T had recorded that her monthly net income was £1,252.89. This was a very precise sum and may have been taken from the bank statement that H&T said it did view at the time. No copy of that has been sent to us by

H&T and Miss T has said she cannot recall which was her bank in 2014 and therefore has not been able to obtain any bank statements.

The expected expenditure figures are very particular sums and amounted to £572.56. This included telephone, rent, housekeeping, utilities and council tax, and '*other expenditure*' which was £66.63. These are very specific figures and I think it's likely these would have been taken from the copy bank statements H&T viewed at the time.

As our adjudicator explained, a proportionate check for the £300 over 24 months, where it was Miss T's first loan with H&T, should have been to be more detailed than simply using her declared income and declared expenditure. Our adjudicator felt that this should have been the way forward because although it was a relatively modest sum of £300, it was due to be repaid over two years.

H&T has sent us evidence to show that it asked Miss T for details of her income and expenditure and reviewed her credit file. The copy of the credit file results indicate that Miss T had experienced four defaulted accounts in the previous 12 months and 7 defaulted accounts in the previous 3 years. While having a default is not usually a reason to decline a loan, I am satisfied that H&T knew about these before it decided to lend to her. That may have been the reason it reduced her application for £1,000 to an approved loan of £300.

Although Miss T says that the financial situation she was in meant that H&T should never have lent to her in 2014, Miss T has sent us nothing to show us her financial situation. I've explained earlier in this decision that the application details from H&T included some documents such as the Direct Debit authority which showed her sort code and account number in August 2014. These were sent to her in December 2020. And so, if she had wished to obtain copy bank statements using this information she could have done. Nothing has been received.

Overall, and on the evidence I have, I agree that the loan does appear to have been lent after proportionate checks were made by H&T. So, I am planning not to uphold Miss T's complaint about irresponsible lending.

And I do not think that it's likely Miss T was mis-led into agreeing to a 24 month agreement. The arranged instalments were just less than £30 a month and so just to repay the principal sum of £300 would have taken about ten months. Loans usually have interest attached and so I think it's likely that Miss T would have realised that this term was for longer than a year, at least. If she had had any questions about the term at the time I think it's more likely than not she would, and could, have raised them in 2014. So, I am planning not to uphold this part of Miss T's complaint.

The gap from 2014 to 2020

Miss T had explained to our adjudicator that she had regularly been checking her credit file before she saw the 'arrears' debt for H&T in January 2020. To her credit Miss T contacted H&T to try to find out more. At that time she thought she had paid it off in the past and hence her bewilderment.

Now, I can see from Miss T's correspondence with us having seen the copy documents from H&T, that she recalls the loan so accepts that she took it. She has also conceded that the loan 'slipped her mind'. H&T says that in the past they had tried to call her to chase payment from around October 2014 and into 2015. I can see that the application documents indicate that she had given them her telephone number. Miss T has said that she has moved address since 2014 but has said that she has had the same telephone number for years. But H&T has sent us no account notes or any evidence to substantiate that it tried to contact her or set up a repayment plan in the past.

I have seen that a direct debit instruction was set up in August 2014 to repay the loan and that these direct debits were halted around October 2014. It may be that Miss T had moved banks. It may be that she'd cancelled the direct debit. I do not know.

In any event, it's largely academic now as H&T has responded to our adjudicator's letter of opinion to agree that the default ought to have been registered when relations between it and Miss T broke down. H&T has notionally agreed that the back-dated default date ought to have been 31 March 2015, and it has agreed to remove the loan from her credit file as – had it registered the

default in 2015 - then six years have passed and so it would have 'fallen away' and not been visible on her credit file by now.

So, for Miss T, her credit file will be cleaner going forward, and Miss T need not be concerned that there will be any default entered now and be on her file for the next six years.

This having been agreed by H&T then there's little else to say. Miss T did not think that this was enough but I do not receive the impression that she disagreed with this part.

The outstanding balance

I agree that there was an outstanding balance, and Miss T still owes H&T money.

But I think that needs to be recalculated to include only the interest up to 31 March 2015, and not beyond. I say this because H&T has not sent to us any evidence of when and how it had tried to obtain payment from Miss T in 2014 and 2015. And it has not really given any proper explanations as to why this loan seems to have resurfaced in January 2020 which is when Miss T contacted H&T. So, if the resolution is that the 31 March 2015 was the default date, then I think that the interest ought to be recalculated to that date too.

I am making this part of my provisional decision as I think it's fair bearing in mind the findings I have made in the previous paragraph, the overall picture I have received reading all of Miss T's submissions and correspondence, and H&T's agreement to back-date the default.

I noted that Miss T wanted us to resolve the complaint by directing that the account be closed. But that would mean writing off the debt with some of the principal unpaid, which I do not think is fair as Miss T had the benefit of that £300. The reduction in the outstanding balance should, in my view, go towards alleviating some of the concerns that Miss T has had about the debt going forward. I'd recommend that she repays the outstanding sum as soon as possible to finalise this situation.

And I remind H&T to treat Miss T with sympathy and understanding, particularly bearing in mind her current and/or recent personal circumstances surrounding her temporary accommodation following a fire at her home.

written apology for H&T's lack of professionalism, financial and emotional distress and poor communication

Miss T needs to understand that I am not able to direct H&T does this. It's a matter of customer service by H&T as to whether it does or not.

Compensation for financial and emotional turmoil

I appreciate that this has been a troubled period and rather lengthy due to delays, but ultimately I do not think that it is warranted to award compensation for the fact that Miss T has failed to repay a debt, forgot about it, and then is upset when the debt is re-established, albeit years later. My view is that the recalculation of the debt interest to 31 March 2015 will afford some degree of indirect assistance, as it will reduce the balance owed by her.

I do not think it's right for Miss T to be compensated when for at least 5 years, according to Miss T, the debt was not visible on her credit file and she has not been pursued by H&T at all. And so, for at least five years this has not had any impact on her.

I deal with Miss T's claim about the alleged failed mortgage applications separately.

Lack of communication after January 2020

I think that it is inadequate that H&T did not send to Miss T the information she requested in January 2020. I have taken time to duplicate this in the '*what happened*' section of this decision. My view is that H&T has somewhat hidden behind the fact that her email correspondence may not have amounted to an official SAR request. But the import of the telephone conversation with that

H&T representative in January 2020, instigated by Miss T, and his replies by email to her (having taken and tested her email address to ensure it was the correct one) were clear. H&T had said it would send the documents and other items to her. She was making enquiries about the agreement to ensure that there really was a debt outstanding.

And I think that Miss T was complaining about this debt and credit file issue. It's logical to be concerned about a 5 year gap and suddenly realising that she owed over £1,000. Miss T, in one of her January 2020 emails to H&T, says that she was going to contact this Service. In my view, any lender's representative would have realised that Miss T was making a complaint. On this point I disagree with our adjudicator.

I think that it was inadequate for H&T to not send her the information she needed soon after she had requested it in January 2020, and further it was inadequate that this was not registered as a complaint in January 2020.

I think that H&T have demonstrated in emails to us that it was unclear whether Miss T made a SAR, whether H&T was treating it as a SAR, or was waiting for her to make an official SAR and – according to it - when she did not make an official SAR, I think that it ignored her reasonable request for information about a debt from 2014.

I appreciate that a great deal of upheaval occurred in 2020 after the Government announcements to deal with the national crisis stemming from the pandemic threat. But Miss T's contact pre-dated that and so I think she has been poorly treated and I do think it has caused her inconvenience and clearly, from her explanations to me, distress.

In my view, Miss T's contact (oral and written in January 2020) was enough to precipitate the registration of a complaint. If it had then this complaint process would have been dealt with more quickly. As Miss T has said to us she had waited patiently for that information after H&T told her it was coming in January 2020, and she was under the impression she had registered a complaint with it in January 2020. Neither was actioned.

In addition, despite having a copy of Miss T's detailed complaint form, the FRL which was issued in November 2020 did not address her complaint points. It dealt with 'irresponsible lending', which, at the point H&T started to treat this as a complaint in October 2020, was not one of Miss T's complaint points.

Further, H&T's covering email sending that FRL to this Service added a line which it seems to think was enough to cover the other complaint points. My view is that this is not the correct way to deal with Miss T's issues, her requests or her complaint. And the delay has been long.

On current evidence I am not satisfied that H&T sent to Miss T a copy of that FRL in November 2020 as she says she had not received it and H&T has sent nothing to show us that it had sent it to her directly as well as to this Service.

I plan to make a monetary award of £250 for the fact that she was denied proper explanations as soon as she raised this debt issue with H&T, when she was informed she'd receive information within a month. And for inconvenience, delay and stress arising from that as H&T failed to commence the complaint procedure as soon as it was raised with H&T, and even when H&T did commence the complaint procedure, the resulting FRL did not address her complaint points.

Suspension of the account while issues sorted out

Miss T first raised this with H&T in January 2020 by saying '*... I don't want to further interest rates to pile, or be documented as a period where I didn't pay without first establishing what should be the correct ground of payment...*'

The reply she received was that no further interest would be added to the account and so far as that amounts to a '*suspension*' then I think H&T has done that – ie – not added any interest.

I think that Miss T's real concern is that all through 2020 her credit file has been further marked down by additional entries about 'late payments'. I understand that has not helped her situation but this will be resolved now that H&T has agreed to back-date the default to March 2015 and for her credit file to be cleaned up in that respect.

So, I don't think there's any more I can say about these two elements of her complaint.

The failed mortgage application

I am not planning to uphold this part of Miss T's complaint. There are several reasons for this and I list them in the following paragraphs.

One is that Miss T has sent no evidence at all. For such a serious point to make that H&T's failings had caused a declined mortgage application then I need more than just a couple of lines in a couple of emails.

Another reason is that if this was a joint application then it's possible that the failure of the mortgage application may have had elements to it which were precipitated by the second applicant's background and details. I know nothing about that other person's financial standing.

Another is that if, as has been established, the loan was taken by Miss T in 2014, she ceased paying for it in late 2014, and the correct action for H&T would have been for it to enter a default in March 2015, then that default would have still been on her credit file around October 2020 when she was making this mortgage application. And so, if H&T had taken the correct course of action in the past, the outcome to an October 2020 mortgage application may have been the same. I have no way of knowing this. This part of Miss T's claim is too remote.

Another reason is that the CRA extracts sent to us by Miss T do indicate that she had other adverse entries on her credit file and so there's no way of knowing that the H&T late payment entries in 2020 were the reasons for the mortgage decline when she had what appeared to be more serious adverse entries on her file in 2020.

I appreciate that this mortgage decline may have caused upset, but that's not a matter about which I think can be upheld as part of Miss T's complaint against H&T.

Failure to obtain credit after the fire

I am very sorry to hear of the circumstances surrounding Miss T's home and I hope that matters have improved. However, this new part of her complaint is too remote to be one I could attribute to any failings of H&T.

And as I said in the previous part of this decision relating to the mortgage application failure, there is nothing to suggest that it was these H&T entries which she says led to receiving credit earlier this year. I do not uphold this part of Miss T's complaint.

What I've decided – and why – my final decision findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I refer to the first part of this final decision in which I outlined that many of my provisional decision findings appear not to be in dispute. And there remain some points about which each party still has some disagreements.

So far as Miss T's complaint point surrounding the failed mortgage application, my view has not changed. Several points I made in my provisional decision I will repeat and elaborate on here.

Miss T has said to me recently that '*H & T alone was enough for my mortgage application to fail.*' Miss T has still not sent any evidence of a failed joint mortgage application. Instead she has sent to me correspondence relating to a successful mortgage offer for the purchase of a property in the UK in the name of another party in February 2021.

If, as has been established, the loan was taken by Miss T in 2014, she ceased paying for it in late 2014, and the correct action for H&T would have been for it to enter a default in March 2015, then that default would have still been on her credit file around October 2020 (and in fact February 2021) when she was making this joint mortgage application. And so, if H&T had taken the correct course of action in the past, the outcome to an October 2020 or February 2021 mortgage application in her name may have been the same. I have no way of knowing this.

The CRA extracts sent to us by Miss T which relate to her own credit file do indicate that she had other adverse entries on her credit file and so there's no way of knowing that the H&T late payment entries in 2020 were the reasons for the mortgage decline when she had what appeared to be more serious adverse entries on her file in 2020. And still I do not actually have evidence of a mortgage application decline.

And it is not persuasive that because an application for a mortgage by her partner alone succeeded, that this would lead me to think that Miss T has suffered loss or financial loss as a result. I do not uphold this part of Miss T's complaint.

Turning to the points raised by H&T, I was pleased to read that overall it accepts what I said in my provisional decision. H&T still queries or has issues with the some points which I set out in the earlier part of this final decision.

The point about whether Miss T received a copy of the FRL can be dealt with first. Miss T called and spoke to one of our adjudicators on 16 December 2020 and she said to him that she'd not received a copy of the FRL (dated 25 November 2020). I have no reason to disbelieve her and yet her call to us had been precipitated by the fact she'd not got anything at all from H&T. And H&T has not sent anything to show me that the FRL had been sent to her as well as to this Service. Even after my provisional decision nothing has been sent to me. And so, I remain of the view that its highly likely that was never sent to Miss T but sent here to us.

Even if I am wrong on this, and Miss T did get a copy of that FRL, I do not think it would make much of a difference to my overall view of how Miss T's queries and her contact with H&T since January 2020 has been handled by it. So not much turns on the point.

H&T has had another chance to send to us copy correspondence and or account notes to demonstrate a series of factors which, ideally, needed clarification but still nothing further has been sent. That may mean it does not have it due to record retention rules within H&T. But as I have received copy correspondence from Miss T between her and H&T and the dates in question relate to last year (2020), which is not long ago, then I find it puzzling. And it is not persuasive for H&T to write to object to a series of provisional findings I've come to without substantiating the points with evidence. So, I have had to review what I have.

I've reviewed it all and my view has not changed. I do not plan to reiterate all that I said in my provisional decision. I make the same award for the same reasons and for the same amount. I repeat here

- I think that the lack of communication after January 2020 by H&T was poor. Miss T was denied proper explanations as soon as she raised this debt issue with H&T, when she was informed she'd receive information within a month. I award to Miss T some compensation for it for distress and inconvenience. If she'd received the information she was told she was going to receive in early 2020 then this debt issue would likely have been cleared up earlier; and
- I think that Miss T's January 2020 contact with one of H&T's representatives was clear enough to have precipitated a complaint. I award to Miss T some compensation for inconvenience, delay and distress arising from that as H&T failed to commence the complaint procedure as soon as it was raised with H&T, and even when H&T did commence the complaint procedure, the resulting FRL did not address her complaint points fully.

The financial award is to be kept separate from the outstanding debt as there is no automatic right to set off and the compensation is for Miss T's personal distress and inconvenience. It is not a refund of monies from another loan or for any redress stemming from an irresponsible lending complaint where a set-off can be done. Here, the compensatory element of the complaint is to be kept separate from the debt.

I reiterate what I said in my provisional decision, that if Miss T can repay the newly calculated (and lesser) balance of this debt quickly, then it would be a recommended course of action by Miss T to bring the debt situation to a close.

Putting things right

My final decision is that I uphold Miss T's complaint in part and I direct that H&T does as follows:

- back-date the default on the loan approved in August 2014 to 31 March 2015 – this will have the effect of removing the loan from Miss T's credit file; and
- recalculate the interest added to the account up to 31 March 2015 thereby reducing the outstanding balance; and
- considering the repayments made in 2014, recalculate what Miss T owes H&T; and
- treat Miss T in a positive and sympathetic manner when approaching her about the repayment of the outstanding sum.

I make a financial award of £250 to reflect the lack of and/or poor communication since January 2020, both in relation to the information she was told she'd be sent and, in my view, the failure to treat this as a complaint in January 2020. And when issuing the FRL it was inadequate as it did not address her complaint points. These failures and delays have caused Miss T inconvenience and distress.

And I direct that the £250 financial award is paid to Miss T directly and not to be used to reduce any amount owed to H&T. If Miss T chooses to use that to reduce the debt to H&T, then it would be a matter for her.

My final decision

My final decision is that I uphold Miss T's complaint in part and I direct that Harvey & Thompson Limited, trading as H&T Pawnbrokers, does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 6 September 2021.

Rachael Williams
Ombudsman