

## **The complaint**

Mr S complains that Harvey & Thompson Limited lent to him without carrying out adequate checks and that the loan was unaffordable.

Mr S is represented by Mrs S but for ease of reference I have referred to Mr S throughout this decision.

## **What happened**

H & T Pawnbrokers provided Mr S with a loan for £200 in September 2017. Mr S says that proper checks weren't carried out before the loan was provided and that he hasn't been able to repay the debt. He said that had adequate checks taken place, H & T Pawnbrokers would have realised that he wasn't employed at the time, had income from benefits of £301, had several other outstanding debts as well as defaults and a county court judgement on his credit file. He said that further checks of his bank statements would have shown he had a gambling problem.

Mr S says that the H & T Pawnbrokers' site stated that earnings needed to be at least £750 a month. He said he didn't have this and couldn't afford to repay the loan. He says this loan has caused him anxiety and that he has offered to repay the original amount lent but H & T Pawnbrokers hasn't accepted this.

H & T Pawnbrokers issued a final response to Mr S' complaint in May 2021. It said that it considered a variety of information when assessing an applicant's credit worthiness. It said that the information submitted by Mr S on application and his credit score met its lending criteria. It said that Mr S provided information about his income and expenses, as part of the application process and confirmed that he wasn't in any financial difficulty. It said based on the information the loan was affordable.

Mr S didn't agree with H & T Pawnbrokers' response and referred his complaint to this service.

Our adjudicator didn't think there was enough to say that this complaint should be upheld. She didn't think there was anything in the information Mr S provided or the information H & T Pawnbrokers should've been aware of, which meant it would've been proportionate to start verifying what Mr S had said.

Mr S didn't agree without adjudicator's decision. He reiterated that had adequate checks been carried out then his low income would have been identified and had further checks taken place given Mr S' low income then these would have shown he wasn't managing his money, was gambling and was relying on family members for support.

**My provisional conclusions**

I issued a provisional decision on this complaint. I concluded in summary:

- Before the loan was provided, H & T Pawnbrokers gathered information about Mr S' income and expenses and carried out a credit check. Given only one loan was

provided, I thought these checks would have been proportionate as long as the information received didn't raise any concerns.

- The information recorded on Mr S' application said Mr S was in full time employment working as an administrator. The monthly income was recorded as £17,000. We asked H & T Pawnbrokers about this amount and it said it was assuming this figure should have been £1,700. While this could have been a typing mistake without further evidence to show that a different figure was provided by Mr S and that such a figure was relied on in the calculations, it is hard to say that a reasonable income check took place.
- Putting the issue of the income figure to one side, I thought the credit checks raised concerns that meant further questions should have been asked. The credit check showed that Mr S had a county court judgement against him and had two delinquent accounts recorded in the previous 12 months. I thought the information received was such that further questions should have been asked. Had this happened I thought it likely that H & T Pawnbrokers would have realised that Mr S was struggling to manage his money.

Overall, I thought further checks should have taken place and if this had happened H & T Pawnbrokers would have realised lending to Mr S wasn't sustainably affordable.

Mr S accepted my provisional decision. H & T Pawnbrokers didn't. It asked for clarification saying it was accepted the credit check results were consistent with the type of customers it lent to but then said further checks were needed. It said the decision wasn't consistent with other decisions it had received.

### **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.

As I explained in my provisional decision, 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.

H & T Pawnbrokers 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 Mr S could repay the loan 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 H & T Pawnbrokers should fairly and reasonably have done more to establish that any lending was sustainable for a 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).

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

As I have explained I think the initial checks carried out would have been reasonable so long as the information gathered didn't raise concerns. In this case the income information was unrealistic, and I think the credit check results meant further questions were needed.

Mr S has said he was on a low income at the time, lower than the minimum he says was required by H & T Pawnbrokers. Mr S was asked about his income, but the results recorded by H & T Pawnbrokers of £17,000 weren't consistent with the role Mr S said he was employed in. I note the comments made that the input was an error and assumed to be £1,700 a month but I have nothing further to support this. As I think further checks would have shown Mr S to be on a low income I think this raises concerns.

Putting the income disparity to one side, I think the credit checks raised concerns. I note H & T Pawnbroker's comments. However, as I have explained, while some adverse information may not be unexpected, in this case I think the information shown in the results suggested that Mr S was struggling to manage his money. He had a county court judgement recorded and the delinquent accounts weren't historic but within the previous 12 months. Therefore, I think that H & T Pawnbrokers should have carried out further checks to ensure Mr S could afford the repayments. Had it done further checks I think it would have realised that the loan wasn't sustainably affordable for Mr S.

I note the comment H & T Pawnbrokers has made about other cases but I treat each case based on its individual merits and in this case I think further checks were needed and as these would have shown the loan wasn't sustainably affordable for Mr S, I am upholding this complaint.

### **Putting things right**

In deciding what redress H & T Pawnbrokers should fairly pay in this case I've thought about what might have happened had it not lent to Mr S.

Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Mr S may have simply left matters there, not attempting to obtain the funds from elsewhere. If this wasn't a viable option, he may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, he may have decided to approach a third-party lender with the same application, or indeed a different application (i.e. for more or less borrowing). But even if he had done that, the information that would have been available to such a lender and how they would (or ought to have) treated an application which may or may not have been the same is impossible to now accurately reconstruct. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Mr S in a compliant way at this time.

Having thought about all of these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Mr S would more likely than not have taken up any one of these

options. So, it wouldn't be fair to now reduce H & T Pawnbrokers' liability in this case for that I'm satisfied it has done wrong and should put right.

As I uphold this complaint, Harvey & Thompson Limited trading as H & T Pawnbrokers should:

- treat any payments made towards this loan as though they were payments of capital and waive any interest and charges such that Mr S is only required to repay the capital amount borrowed. If this results in Mr S having made overpayments these should be refunded along with interest of 8% simple a year on all overpayments from the date of payment to the date of settlement\*;
- if an outstanding balance remains, work with Mr S to agree an affordable repayment plan;
- remove any adverse information about this loan from Mr S' credit file.

\* HM Revenue & Customs requires H & T Pawnbrokers to take off tax from this interest. H & T Pawnbrokers must give Mr S a certificate showing how much tax it's taken off if he asks for one.

### **My final decision**

My final decision is that I uphold this complaint. Harvey & Thompson Limited trading as H & T Pawnbrokers should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 21 December 2021.

Jane Archer  
**Ombudsman**