DRN-3235863

The complaint

Mr H says Shelby Finance Ltd (trading as Dot Dot Loans) irresponsibly lent to him.

What happened

This complaint is about one instalment loan Shelby provided to Mr H in September 2019. The loan was for £750 and was to be repaid in nine monthly instalments, the highest being £141.86. Mr H repaid his loan.

Our adjudicator didn't recommend that Mr H's complaint should be upheld. Mr H disagreed and so the complaint was 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 short-term lending - including all of the relevant rules, guidance and good industry practice - on our website.

Shelby 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 Mr H 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 Shelby should fairly and reasonably have 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 and pattern of lending itself clearly demonstrates that the lending was unsustainable.

I think that it is important for me to start by saying that Shelby was required to establish whether Mr H could sustainably repay his loan – 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 Consumer Credit Sourcebook ("CONC") defines 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 Mr H's complaint.

Shelby asked Mr H for information about his monthly income and outgoings and it carried out a credit check. Mr H said he earned £2,500 a month and his outgoings totalled £1,250. Shelby carried out a credit check and there were no defaults on Mr H's record. There was one repayment plan. But otherwise Mr H's finances looked to be well-managed.

So there was nothing untoward in the credit check that Shelby carried out that should have prompted further checks. So, from the information available, it looked as if Mr H had sufficient disposable income to meet his repayments sustainably.

Mr H provided details of another person's complaint that had been upheld by this service. But I can't consider that here as I assess each complaint on its own merits.

Mr H thought Shelby should have asked to see his bank statements. He said that if it had it would have seen his regular gambling transactions and so not provided the loan. He also said he had loans from other lenders that he hadn't declared.

I accept that Mr H's actual circumstances weren't reflected either in the information he provided, or the other information Shelby obtained. And Mr H's actual financial position might well have been apparent if further information – such as bank statements – had been obtained.

But Shelby could only make its decision based on the information it had available at the time. And as it was in the early stages of a lending relationship with Mr H, I don't think it had reached the stage where there was a greater risk of the loan being unsustainable for Mr H. In these circumstances, I don't think Shelby needed to take further steps to verify the information provided.

Equally I'm only able to uphold a complaint where I can safely say that a lender has done something wrong. And, in this case, I think Shelby carried out reasonable checks even though it looks like the information it was provided wasn't reflective of Mr H's actual financial position.

Shelby relied on the information it was provided with and given the amount of the repayment involved, together with Mr H's declared income and Mr H only taking one loan, I think that this wasn't unreasonable. As this is the case, I'm not upholding Mr H's complaint.

My final decision

For the reasons given above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 4 April 2022.

Phillip Berechree
Ombudsman