

The complaint

Miss S complains that Shelby Finance Ltd, trading as Dot Dot Loans, lent to her irresponsibly.

What happened

Shelby approved for Miss S a £4,000 loan on 21 April 2021, repayable at £186.65 each month for 48 months. It was repaid in September 2021 and Miss S has explained that was because her mother obtained a loan at a better rate and so Miss S now owes her mother.

One of our adjudicators thought that a full financial review ought to have been carried out before lending. Having done that, she thought that Shelby would have seen her extensive gambling and so not lent to her.

Shelby has said that it carried out proportionate checks. The credit search it did would not have prompted it to have obtained and reviewed bank statements. And, Miss S may have provided bank statements for an account not showing gambling transactions and so it would have been none the wiser. The unresolved complaint was passed to me to decide.

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 unaffordable/irresponsible lending - including all the relevant rules, guidance, and good industry practice - on our website.

Taking into account the relevant rules, guidance and good industry practice, what I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are whether Shelby completed reasonable and proportionate checks to satisfy itself that Miss S would be able to repay in a sustainable way? And, if not, would those checks have shown that Miss S would've been able to do so?

If I determine that Shelby did not act fairly and reasonably in its dealings with Miss S and that she has lost out as a result, I will go on to consider what is fair compensation.

The rules and regulations in place required Shelby to carry out a reasonable and proportionate assessment of Miss S' ability to make the repayments under this agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower" focused – so Shelby had to think about whether repaying the loan would be sustainable and/or cause significant adverse consequences for Miss S. In practice this meant that Shelby had to ensure that making the payments to the loan wouldn't cause Miss S undue difficulty or significant adverse consequences.

In other words, it wasn't enough for Shelby to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Miss S. Checks also

had to be “proportionate” to the specific circumstances of the loan application.

In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications.

I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a consumer’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 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 the arguments, evidence and information provided in this context and what this all means for Miss S’s complaint.

This has been difficult to decide as I can see that Shelby had carried out checks and had used the information it had obtained to increase the figures it had for Miss S and her expenditure. In its submission to us before the complaint was passed to me Shelby has said:

Miss S ‘...stated her total monthly expenses were £532.00. Upon reviewing her credit file and using data from ONS we increased this to £925.00, plus our repayment amount would be £1,111.65 a month, the monthly income declared was £2020, this would leave [Miss S] with £908.35 a month after all her priority bills and living costs had been taken in to account.’ ‘ONS’ refers to Office for National Statistics.

However, this was a large loan and over a significant period of four years. So, I would have expected that a full and financial review of all of Miss S’ circumstances to have been carried out. And not necessarily a full review only if the credit search results revealed an issue which is what Shelby may be suggesting. And although Miss S had said to Shelby that the loan was for a car purchase, I’ve not seen anything which indicates that Shelby checked that.

That full review could have included obtaining copy payslips to verify income and reviewing copy utility bills and all outstanding HP and other regular credit commitment agreements. Even if Shelby did not do that, another way, and often more convenient method, to review a person’s financial situation, was to ask for and review in detail a person’s copy bank statements. And this is a known method of carrying out checks on a new customer before lending – whether that’s verifying an income or checking on expenditure. And so, I do not consider this to be an unusual approach.

Shelby makes a point that it may have been the case that a customer could have delivered to it, if it had asked, copy bank statements for an account not showing the gambling. But if that had been the case, and a customer had had two or more bank accounts, often they show that transfers took place between the accounts. If they did show transfers then a thorough review would lead to asking about those other account(s). And if no transfers between accounts were shown then reviewing the one set offered to Shelby likely would

have been a satisfactory full financial review. Plus, often credit searches show if individuals have more than one bank account.

In any event, Shelby's conjecture on what a customer might have offered up to it if it had asked for copy bank statements is not a reason not to have done it as part of its checks if warranted.

Having reviewed the bank statements sent to us by Miss S, then in March 2021, I can see that Miss S received around £1,400 as a salary for that month and one other source of income which was work and child tax credits of £144 each week. That amounted to £2,024 a month and so Shelby had used the correct income figure. And the bank statements show she's repaying at least one high cost lender.

Shelby's credit search results did show six defaults in the 36 months before the search was carried out in April 2021, some as recent as 2019 and 2020, and one had the outstanding balance on it of £565 for the month before in March 2021.

I have seen the summary figures taken from the full credit search results.

A note on the credit search results show that Shelby had calculated that the repayments to Shelby would be 17% of Miss S' disposable income and yet I've also seen that on the credit score it obtained, it said '*Max loan based on Risk Score £500*'. And it went on to note that the loan offer was based on the requested amount – a sum eight times larger than the '*Risk Score*' recommended sum of £500.

As I have indicated earlier, this has not been an easy decision as I have seen the valid points made by both sides. The main element I have kept at the forefront of my mind is that the loan was to be repaid over four years at £186.65 a month. And so, Miss S was committed to Shelby for a long time and for significant repayments. And so, I do think that additional checks over and above the Office of National Statistics (ONS) figures and a credit check would have been proportionate and that would have been achieved, in my view, by doing a full financial review.

And I do think that it's likely that bank statements would have been a reasonable method to assist Shelby with its review, and if seen I think that the extensive gambling in Miss S' transaction lists would have been seen by Shelby. And then I doubt it would have lent £4,000 to Miss S and committed her to four years of relatively high repayments. Miss S was, on some days, spending £250 on gaming transactions and carrying that out many times a month.

So, I uphold Miss S' complaint.

Putting things right

Miss S has repaid the loan and so to put things right for this complaint, Shelby should do the following:

- to add up the total amount of money Miss S received because of having been given the loan. The repayments Miss S made should be deducted from this amount.
- If this results in Miss S having paid more than she received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement)*

- remove any negative payment information recorded on Miss S' credit file relating to loan.

*HMRC requires Shelby to take off tax from this interest and it should give Miss S a certificate showing how much it has taken off if Miss S asks for one.

My final decision

My final decision is that I uphold Miss S' complaint and direct that Shelby Finance Ltd, trading as Dot Dot Loans, does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 19 April 2022.

Rachael Williams
Ombudsman