

The complaint

Mrs F (through a representative) complains Short Term Finance Limited (STF) lent to her irresponsibly because it didn't carry out proper affordability checks before it provided her with lending.

What happened

In total Mrs F was advanced six home collected loans from STF between October 2014 and December 2015. I've included some of the information the Financial Ombudsman has received from STF about the lending in the table below.

loan number	loan amount	agreement date	repayment date	term (weeks)	weekly repayment
1	£600.00	08/10/2014	23/12/2014	15	£60.00
2	£700.00	23/12/2014	03/06/2015	15	£70.00
3	£700.00	03/06/2015	12/08/2015	15	£70.00
4	£750.00	12/08/2015	07/10/2015	15	£75.00
5	£800.00	07/10/2015	02/12/2015	15	£80.00
6	£900.00	02/12/2015	01/06/2016	15	£90.00

The repayment date for loan six, is the one STF has used in its own loan table that it supplied to the Financial Ombudsman, even though in the final response letter STF says the loan was written off in June 2017.

In response to Mrs F's complaint STF issued its final response letter (FRL) on 9 December 2020. In the FRL, STF explained that it hadn't done anything wrong when it advanced these loans. STF says, that Mrs F had problems repaying her final loan and the outstanding balance of £690 was written off in June 2017.

Unhappy with this response, Mrs F's representatives referred her complaint to the Financial Ombudsman Service.

The adjudicator, then reviewed Mrs F's complaint and she didn't uphold her complaint about loans 1 - 3.

But, the adjudicator thought, that loans from and including loan four shouldn't have been granted. She thought that further checks needed to have been carried out because there were signs Mrs F was having problems managing her money. She had taken longer than the contractual agreement to repay loan two and each new loan had been taken out on the same day a previous loan had been repaid.

She went on to explain that further checks would've likely shown STF that Mrs F had several outstanding loans with other credit providers. Overall, she didn't think the final three loans were sustainable.

Neither Mrs F or her representative have responded to either the adjudicator's assessment or the ombudsman referral letters.

STF disagreed with the adjudicator's assessment, in part. In summary, it said:

- There was nothing wrong in the way STF dealt with Mrs F;
- it adhered to all the regulations that were applicable at the time;
- it has only been since November 2018 STF has the technology to enable online applications so the evidence taken such as wage slips could be kept;
- STF partially agreed with the adjudicator, it agreed with her findings about loans 1-3 and it has agreed to uphold loan six and
- STF says there isn't enough information to show loans four and five should be upheld.

The offer STF made for loan six was put to Mrs F's representative. No response was received, and so 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.

There doesn't appear to be any ongoing disagreement about the outcome the adjudicator reached about loans 1 – 3. So, it seems that there is no longer a dispute about this lending. This means I won't be making a finding about them in this decision. But I have kept them in mind when thinking about Mrs F's overall lending relationship.

Instead, this decision will focus on what happened when loans 4 - 5 were lent. But I've kept in mind loan 1- 3 as they do form part of Mrs F's lending history with STF.

STF has already accepted that loan six should be upheld, so I've added this loan to the redress section at the end of this decision. To be clear I am not going to be making a finding about this loan either as I no longer think there is any disagreement about it.

STF 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 Mrs F could repay her loans 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 suggest STF should have done more to establish that any lending was sustainable for Mrs F. These factors include:

- Mrs F 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);
- Mrs F 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);
- Mrs F 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 Mrs F. The loan payments being affordable on a strict pounds and pence calculation might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case.

At the time these loans were advanced, STF was regulated by the Financial Conduct Authority, which has set out in its Consumer Credit Sourcebook ("CONC") that 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 Mrs F's complaint.

Loan 4

By the time loan four was advanced, it was now the third time that Mrs F had returned for further borrowing on the same day that a previous loan had been repaid, and her weekly commitment had increased from £60 per week at loan one to now £75 at loan four.

In addition, Mrs F had some repayment problems, it had taken her 23 weeks to repay loan two, when it was contracted to last only 15 weeks.

Given, Mrs F apparent need to continue to take credit and her previous problems I think that STF's checks needed to go further. For this loan, STF has provided evidence that it carried out an income and expenditure check, which showed it that Mrs F had £475 per week of disposable income. So STF may have reasonably concluded that Mrs F could afford her weekly commitment.

But, as I've said, the checks, in my view didn't go far enough. By this point in time, for the reasons I've explained above, STF needed to have been verifying the information that Mrs F was providing in order to gain a complete understanding of her financial position at the time this loan was advanced. So, I don't think the checks were proportionate.

STF could've asked to see evidence of Mrs F's bank statement, wage slip or copies of various utility bills. Or, it could've looked at what I've considered here which is her full credit file in order to understand what, if any other commitment she had.

Mrs F has provided a copy of her credit file, so I don't think its unreasonable to review this to see what further checks may have highlighted about Mrs F's financial situation. A review of Mrs F's credit file ought to have showed STF the lending wasn't sustainable, had it carried out further checks it would've likely discovered the following;

1. a County Court Judgement (CCJ) recorded against Mrs F in November 2014 for more than £730;

2. Mrs F had at least five other outstanding home collected loans at the time, with weekly repayments of at least £225 per week and
3. one mobile phone and two utility accounts were significantly in arrears and were likely to be defaulted in the coming months.

This information shows me that Mrs F had previously had financial difficulties to the extent that a credit provider sought and was granted a CCJ and these financial difficulties appear to have continued given that there were at least three accounts with significant arrears.

On top of this, Mrs F already had at least five outstanding home credit loans, so I didn't see how providing further credit to Mrs F was in anyway sustainable given what I've seen in her credit file. So, I don't think STF ought to have granted this loan.

Loan 5

For the same reasons as loan four, I think further checks needed to be carried out before this loan was advanced for the same reasons. Again, this was another loan granted on the same day a previous one was repaid, and her weekly commitments had again increased, she was now due to pay £80 per week.

I've looked at her credit file again, and a similar picture is present, there is still significant amounts of other high cost credit that she was due to repay and she was still in arrears with a number of accounts – these accounts were likely about to default due to the arrears.

So, for similar reasons as loan four, I don't think Mrs F's fifth loan ought to have been granted because it wasn't sustainable for her.

Loan six has been dealt with earlier on in this decision, but I've included it in the 'putting things right' section below.

Putting things right

In deciding what redress STF should fairly pay in this case I've thought about what might have happened had it stopped lending to Mrs F from loan 4 as I think it ought to.

Clearly there are several possibilities, and all hypothetical answers to that question.

For example, having been declined this lending Mrs F may have simply left matters there and not tried to obtain the funds from elsewhere – particularly as a relationship existed between her and STF which she may not have had with others. If this wasn't a viable option, she may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, she 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 she 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 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 Mrs F in a compliant way at this time.

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

these options. So, it wouldn't be fair to now reduce STF's liability in this case for what I'm satisfied it has done wrong and should put right.

STF shouldn't have given Mrs F loans 4 - 6.

If STF have sold the outstanding debts it should buy these back if you are able to do so and then take the following steps. If STF are not able to buy the debts back then it should liaise with the new debt owner to achieve the results outlined below.

- A. STF should add together the total of the repayments made by Mrs F towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything STF have already refunded.
- B. STF should calculate 8% simple interest* on the individual payments made by Mrs F which were considered as part of "A", calculated from the date Mrs F originally made the payments, to the date the complaint is settled.
- C. STF should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Mrs F as though they had been repayments of the principal on all outstanding loans. If this results in Mrs F having made overpayments then STF should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. STF should then refund the amounts calculated in "A" and "B" and move to step "E".
- D. If there is still an outstanding balance then the amounts calculated in "A" and "B" should be used to repay any balance remaining on outstanding loans and any principal STF has already written-off. If this results in a surplus then the surplus should be paid to Mrs F. However, if there is still an outstanding balance then STF should try to agree an affordable repayment plan with Mrs F. STF shouldn't pursue outstanding balances made up of principal it has already written-off.
- E. STF should remove any adverse information recorded on Mrs F's credit file in relation to loans 4 - 6.

*HM Revenue & Customs requires STF to deduct tax from this interest. It should give Mrs F a certificate showing how much tax has been deducted, if she asks for one.

My final decision

For the reasons I've explained, I uphold Mrs F's complaint in part.

Short Term Finance Limited should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 25 March 2022.

Robert Walker
Ombudsman