

## The complaint

Mr S complains that Shelby Finance Ltd trading as Dot Dot Loans (Shelby) lent to him irresponsibly.

## What happened

Mr S took three loans. Here is a brief table.

Loan	Date Taken	Date Repaid	Term - months	Loan amount	Monthly repayment	Total + int
1	23/02/21	26/02/21	3	£150	£78.31	£234.93
Nine month gap in lending						
2	16/11/21	01/03/22	3	£100	£54.33	£162.99
3	02/03/22	o/s	3	£100	£49.68	£149.04

Mr S complained and received a detailed final response letter from Shelby explaining why it did not uphold his complaint. Dissatisfied with that outcome Mr S referred his complaint to the Financial Ombudsman Service where one of our adjudicators reviewed it.

In his complaint form to us, Mr S explained this:

*'I was allowed several loans whilst I had other loans with large outstanding balances which I had missed payments for. there was also significant gambling activity on my accounts'*

Our adjudicator thought that the credit search details Shelby had obtained about Mr S before lending loans 2 and 3 to him showed Mr S was in financial difficulties. And so, he thought that these loans should not have been approved for Mr S. He did not have the same view about loan 1 – he considered that Shelby had not done anything wrong for that one.

Mr S seemed to agree with our adjudicator.

Shelby disagreed and gave extensive reasons why all of which I considered and I have reconsidered before issuing this decision.

The unresolved complaint was passed to me to decide and I issued a provisional decision (duplicated here in smaller type) on 11 May 2023.

### **The provisional decision dated 11 May 2023**

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 this type of lending - including all the relevant rules, guidance and good industry practice - on our website.

Shelby had to assess the lending to check if Mr S could afford to pay back the amounts he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Shelby's checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr S's income and expenditure.

With this in mind, I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Shelby should have done more to establish that any lending was sustainable for Consumer. These factors include:

- Mr S 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);
- Mr S 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);
- Mr S 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 Mr S.

I have reviewed Mr S's circumstances and the lending relationship and I do not consider that any of the above bullet points apply to Mr S's situation. Mr S had a relatively good income and the loans were for very low sums, over a short period and with a nine month gap in the middle of the lending. This gap would have been a good indicator to Shelby that Mr S was not reliant on its credit. Mr S did not borrow from Shelby enough times to build up a pattern of coming back for loans shortly after repaying the previous ones.

Shelby was required to establish whether Mr S could sustainably repay the loan – not just whether he technically had enough money to make the repayments. Having enough money to make the repayments could of course be an indicator that Mr S was able to repay his loans sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that payments are sustainable if they are made without undue difficulties and, 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 Mr S's complaint. And I plan not to uphold it.

Mr S has not disagreed with the outcome in relation to loan 1, and so as that appears to be resolved I have not reviewed it in detail. After repaying it there was a nine month gap before Mr S came back to ask Shelby for loan 2, so I do consider it to have been a 'one loan chain'. The new loan chain commenced with loan 2 and that means that I consider it reasonable and fair for Shelby to have approached the loan application in such a way that relying on the information Mr S gave to it about his financial circumstances would have been proportionate and appropriate. So, treating Mr S as, effectively, a new customer would have been the proportionate approach.

Loans 2 and 3 were for £100 only and so very modest sums.

For each loan Mr S had declared that he lived at home with his parents which would have meant that he had relatively little (if any) household outgoings. And this status also means that Mr S was not likely to be at immediate or serious risk of not being able to afford priority bills such as rent, a mortgage or any utility bills.

Mr S's income was declared as being £1,650 each month from his full time employment. And for these loan values (£100) and for the new loan chain (and therefore Mr S being treated as a new customer), I'd consider that relying on the information Mr S had given to Shelby would have been enough.

In any event, Shelby did go further. It verified his income as being about right using a Credit Reference Agency (CRA) verification tool. And it reviewed his payslip for loan 2. For loan 3 it reduced his income to £1,500 a month and used that in its creditworthiness assessment.

Shelby used Office of National Statistics (ONS) data, together with the credit file information to increase his monthly expenditure figure. Here is some of the information Shelby provided us with in the format of a table for loans 2 and 3.

Loan	Declared income	Declared expenses	Disposable income using declared figures	Shelby's reduced disposable income figure after using ONS & credit search data
2	£1,683	£410	£1,273	£437
3	£1,650	£500	£1,150	£570

The instalment amounts due to be paid to Shelby for loan 2 was just over £54 a month and for loan 3 just under £50 a month. So even on the newly calculated figures, which demonstrates to me that Shelby was exercising caution, the loans looked affordable.

Shelby went further and obtained a credit search. The headline information from that search for loan 2 was that Mr S had total debt value across all accounts of £6,339 and had one active short term loan account. He had a defaulted account with an £800 value from May 2021, and he had some arrears on a loan he'd taken from another lender in June 2021. I'd not consider that information to be enough such that Shelby would have been prompted to have declined the loan application for £100. And this is because the loan application was for so small a sum that within the context of the information and financial picture, I do not consider it would have been irresponsible to approve a £100 loan.

Shelby has been clear in its resistance to the adjudicator's outcome and has pointed out that while Mr S had one default within 12 months, by the time of loan 3, the credit check Shelby completed confirmed that Mr S had satisfied this default, which demonstrated he could manage his finances. And I agree.

There were no County Court Judgments (CCJs), insolvencies or any accounts on repayment plans or in Debt Management status within the last 12 months. It also pointed out that the debt on which there were arrears going back several months had a 'Q' mark attached to it which mean that having seen that it would have interpreted that as being Mr S's being in the process of disputing this account with the creditor.

I have revisited the details I have on the CRA search Shelby carried out and for loan 3 the overall debt across all accounts had reduced significantly to around £4,580 and the defaulted account had been settled. He did have arrears on that same loan from June 2021 but I have seen the 'Q' marker.

The adjudicator mentioned in his view that Mr S had and was using his £3,000 overdraft but my view is that this was not a part of his financial situation which ought to be considered too significant in these circumstances. Mr S was not at his maximum of the overdraft limit when he applied to Shelby for loan 3, was not exceeding it for loans 2 or 3, and had no adverse entries relating to his bank account showing on the credit searches I have seen.

So, the bank with which had had the overdraft was not at the stage where it had reported adversely to the CRAs about that bank account. I do not consider that having and using an overdraft facility ought to lead a potential lender to consider that approving a £100 loan was irresponsible.

Overall, I think that Shelby carried out checks which were more than what I'd normally consider proportionate for loans of £100 early on in a lending relationship. And having done that, I'd not expect it to have done more. Mr S has mentioned the gambling but as Mr S does not appear to have informed Shelby about that, then I do not see that it would have known of it. And I'd not expect a lender to carry out a full financial review for a £100 loan, such that it might have asked for and may have received any bank account statements. So, I consider it unlikely Shelby would have seen any.

The lending decision would have accounted for some adverse information on Mr S's credit report as Shelby has explained – it's used to seeing such entries as it's a sub-prime lender. And I'd not describe Mr S's credit report information to be so poor that these loans ought to have been declined.

Overall, I do not consider that Shelby lent to Mr S irresponsibly. I plan not to uphold the complaint.

### **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.

Mr S and Shelby were given a reply date deadline of 25 May 2023 and although I've not received a response from Shelby I'd not necessarily expect to in these circumstances. By that I mean that my provisional decision outcome was for a non-uphold of the complaint and so its not likely that Shelby has anything else to add.

Mr S has responded and has sent to me more copies of his bank account statements and says:

*'I do not agree, as can be seen I had [sic] with gambling problems significant overdrafts that were not being paid off. I also had further loans which I was unable to pay along [sic]'*

As Mr S has responded and sent some more evidence then, I have reviewed the complaint.

I repeat all my provisional findings here.

The core of my reasoning not to uphold Mr S's complaint is that I consider Shelby carried out checks which were proportionate to the £100 loans he was applying for. And as such I'd not have expected Shelby to have done more. It would not have seen Mr S's bank statements as I would not have expected it to have seen them. Asking to see and then review those would have been disproportionate considering the lending relationship infancy, the loan sums and loan terms.

The lending decision made by Shelby would have accounted for some adverse information on Mr S's credit report as Shelby has explained – it's used to seeing such entries as it's a sub-prime lender.

And I'd not describe Mr S's credit report information to be so poor that these loans ought to have been declined.

I do not uphold Mr S's complaint.

**My final decision**

My final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 21 June 2023.

Rachael Williams  
**Ombudsman**