

## The complaint

Mr M, through his representative, complains that Shelby Finance Ltd, trading as Dot Dot Loans ("Shelby"), lent to him irresponsibly.

## What happened

Mr M took four loans from Shelby and a brief loan table is set out here:

Loan	Approved	Amount	Repayments each month	Paid
1	22 June 2019	£300	£160.68 – term unknown	30 September 2019
Gap in lending of eight months				
2	31 May 2020	£350	£103.22 x 6	4 December 2020
3	26 December 2020	£200	£44.97 x 6	1 April 2021
4	6 June 2021	£400	£129.42 x 6	3 December 2021

Mr M's representative commenced the complaint process and Shelby's final response letter (FRL) dated 12 October 2022 gave reasons why it considered it had done all the right checks before lending to Mr M and did not uphold his complaint.

Mr M's representative referred the complaint to the Financial Ombudsman Service where one of our adjudicators looked at it all and did not uphold his complaint.

Mr M's representative forwarded to us Mr M's comments and sent additional submissions together with copy bank account statements for the lending relationship. The submissions are as follows:

- *'he was a prolific gambling addict throughout the whole period of borrowing. All loans were taken to fund his gambling addiction or repay other loans he has taken to fund his addiction.'*
- *Any payments that you see on his bank statements to a [third party name] are him sending [third party] money to make bets for him as he had blocked himself from all gambling websites to try and stop his addiction but could not stop so was getting people to gamble for him.*
- *Had the lender done a further check then they would have been able to see clearly that he should not have been given the loans. He would lie in all of his applications to lenders to get loans.'*

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.

Shelby had to assess the lending to check if Mr M 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 considered several different things, such as how much was being lent, the size of the repayments, and Mr M's income and expenditure.

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 Mr M. These factors include:

- Mr M 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 M having many loans and/or having these loans over a long period (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);
- Mr M 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 M.

Shelby was required to establish whether Mr M could *sustainably* repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr M 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 M's complaint. And I've decided not to uphold Mr M's complaint. I give my reasons here.

Shelby has demonstrated that for each application Mr M's income exceeded his outgoings. Shelby increased his expenditure figures having obtained some information of its own through credit reference agency searches and using statistical data. All of this is a reasonable approach to take. So, the loans would have looked affordable.

The credit search results for each loan have been sent to us and they are detailed documents all of which I've reviewed carefully. For loans 1 to 3 the overall indebtedness figure was not particularly high – between £3,000 and £5,600.

I have seen that in January 2018 and February 2018 Mr M had three defaulted accounts but these would have been some time before Mr M applied for loan 1 and lenders such as Shelby would not have considered that to have been reasons to refuse the loan. It is used to lending to individuals with some adverse information on their credit history records.

In addition, the loans were all low value. There was a significant gap in lending between paying off loan 1 and applying for loan 2 and so I consider these to have been two loan chains. That means that loans 2 and loan 3 would have been early in the second lending chain and usually I would have considered it enough for Shelby to have relied on what Mr M had informed it about on his applications.

But I do notice that loan 2 was just after the National Covid 19 pandemic lockdown had commenced. I've evidence from Shelby that it verified his income but I think that in 2020 and 2021 it ought to have double checked this as it may be that Mr M may have been furloughed or some other arrangements had taken place. However, the evidence from Mr M (his bank account statements) show me that even if Shelby had asked for additional income information then it would have been assured that Mr M was still employed and was earning broadly the figures he'd set out in his application forms. Sometimes I've seen that his net salary crediting his account was £400 or so higher than he'd declared to Shelby.

For loans 2 and 3 his credit file showed no additional adverse information and so as the loans were still for relatively modest sums and were early in the second lending chain I'd consider Shelby had carried out proportionate checks and would not have been in receipt of any information likely to have led it to decline the loan or to ask for additional information.

At loan 4, there was a change as Mr M had obtained around a £202,000 mortgage in March 2021 – just three months before applying for loan 4. The repayments for that would have been factored into the assessment Shelby would have carried out as I've seen that the mortgage is noted in its affordability document for loan 4. And often the approval of a significant line of credit such as a mortgage can enhance an individual's credit file record.

Mr M's application at loan 4 was still relatively modest at £400 and so I do not consider that Shelby needed to have carried out any additional checks over and above what it had already done.

Mr M has sent to me his bank account statements. Our adjudicator did not have those when he did his review. And I've several points to make about those.

The first is that I'd not necessarily have expected Shelby to have asked for and reviewed his statements. I'd have considered that disproportionate in the circumstances.

The second is that despite Mr M's submissions, they do not show extensive gambling. They do show the named third party which Mr M's representative has described to us as a 'workaround' the gambling website blocks he himself had set up.

And so, with all that information I can't rationally conclude that Shelby ought to have known and realised that this was a set of transactions to cover up his gambling – even if it had reviewed his statements – when Mr M has admitted to us (through his representatives) that they were deliberately set up to achieve that aim – disguise the transactions.

And I have no evidence that Mr M informed Shelby of his gambling at the time. And to address the final submission from his representatives, then Shelby would not be expected to have known that Mr M had lied on all his applications to obtain the credit.

I do not uphold Mr M'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 M to accept or reject my decision before 21 August 2023.

Rachael Williams  
**Ombudsman**