

The complaint

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

What happened

Using information from Shelby here is a loan table giving some details of the approved loans:

Loan	Approved	Amount	Repayments in months	repaid
1	20 June 2020	£250	£78.87 x 6	31 December 2020
2	8 November 2020	£350	£99.49 x 6	17 December 2020
Gap in the lending of eighteen months				
3	5 June 2022	£1,000	£318.16 x 6	Payment plan since September 2022 £54 month

Mr H complained to Shelby a few days after taking loan 3. Shelby issued its final response letter (FRL) on 8 August 2022 and did not uphold Mr H's complaint. He referred it to the Financial Ombudsman Service and one of our adjudicators thought the same.

Mr H responded to our adjudicator's view and said that his main concern arising from the complaint was with loan 3 and at the time he said that his outgoings were double the sum that he'd declared when applying for loan 3.

So, Mr H felt that Shelby ought to have been alerted that '*something wasn't quite right*' and therefore looked into it further. He understood that looking at bank statements is not required but he says that in these circumstances Shelby's underwriting team ought to have been '*suspicious*'. And, Mr H added, if Shelby had looked at his bank account statements before approving loan 3, it would have seen a large amount of gambling and that he was '*deep*' into his overdraft.

Our adjudicator issued a second view in which she explained:

- there was a gap between loans 2 and 3 and so she had treated the loan 3 approval as a new phase of lending and
- Shelby had increased the figure used in its creditworthiness assessment from £665 (as declared by Mr H) to £1,350 after it had carried out its own research and so that element had been factored in, and
- even after deducting the higher figure of expenditure from Mr H's income, Shelby still considered that he could afford loan 3 and
- she did not think Shelby needed to have asked to view bank statements.

So, our adjudicator did not alter her view and Mr H wanted to have the complaint reviewed. 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 H 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 several different things, such as how much was being lent, the size of the repayments, and Mr H'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 H. These factors include:

- Mr H 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 H having a large number of 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 H 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 H.

Shelby was required to establish whether Mr H 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 H 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 H's complaint. I've decided not to uphold the complaint.

It seems that Mr H's main issue was in relation to loan 3. Mr H did not seem to disagree with the adjudicator's outcome about the first two loans as his response was mainly about loan 3. So, I have proceeded on the basis that the unresolved part of the complaint related to loan 3. But I have briefly reviewed the first two loans for completeness.

I have reviewed the circumstances surrounding the approval of loans 1 and 2 and I agree with the adjudicator that Mr H's income exceeded his expenditure and that the relatively

modest loans over relatively short loan terms were approved after proportionate checks had been done. I do not uphold the complaint about loans 1 and 2.

Loan 3 was for more money - £1,000 – but was applied for eighteen months after Mr H had paid off loan 2. That gap in the lending relationship was long enough to have been reasonable for Shelby to have approached that loan 3 application as if Mr H was a new customer. And that meant that for a £1,000 loan over six months I'd have considered it proportionate for Shelby to have relied on the information Mr H had given to it on the application form.

Mr H did say on the application form that he wanted the loan for debt consolidation. Mr H had said that he earned £2,130 each month after tax from full time employment and his expenses were £665. And Shelby carried out its own research by verifying his income and by checking Mr H's credit file and utilising data from the Office for National Statistics (ONS). It increased that expenditure figure to £1,350. I've been sent copies of each of the credit search results and for loan 3 I have reviewed them carefully.

The additional expenses revealed in that credit search were factored into the creditworthiness assessment and so using the information it had and being satisfied that Mr H could still afford loan 3, it had no need to request to see anything further from Mr H. Therefore, it's unlikely that Shelby would have seen any bank account transactions which may have shown gambling as Mr H has told us. That would have been disproportionate in my view. I add that Mr H has sent us no evidence to support his submission about gambling.

And there's no evidence to show that Mr H had informed Shelby about the gambling and so I do not think that Shelby knew, or had any reason to have known, of the gambling.

Mr H's submissions that the Shelby underwriting team ought to have viewed his application as suspicious and investigated further rather turns on its head the rational reason for applying for a loan - namely that an applicant wants to receive some credit. To apply for a loan and complete the application form using information which the applicant deems to be the sort of information that should make the potential lender '*suspicious*' does not sound like an application to me. It sounds like Mr H – in doing this – may have wanted the loan to be refused.

I did consider whether Shelby could have viewed Mr H's complaint as a withdrawal, as the complaint was made so soon after Mr H had accepted the funds after the loan approval. I asked for a copy of that complaint email to check this. But the email from Mr H to complain makes no mention of any wish to withdraw or to pay back the £1,000 loan.

And the email from Mr H clearly uses the terminology for his concern being an irresponsible lending complaint. For it to have been viewed as a withdrawal, Mr H needed to have stipulated that plus had the full £1,000 ready to pay back straight away. It may be that he did not have the money in his account with which to repay the full amount. So, for these reasons I decided it was not feasible to consider that there may have been a withdrawal here. I mention it so that Mr H appreciates I looked at each angle. But going forward, Mr H might like to be aware of that 14 day withdrawal period if he finds himself in similar circumstances again.

However, for the reasons I have given I do not uphold the complaint.

Correspondence between the parties seen in the account notes I have reviewed demonstrate to me that a repayment plan was set up for Mr H on 30 September 2022 for £54 a month. As I understand that in November 2022 Mr H still had around £900 to pay Shelby, which I anticipate has reduced since then, I remind Shelby to approach the debt held

by Mr H with forbearance and to treat Mr H fairly going forward. Mr H has referred to some health issues of which Shelby is fully aware.

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 H to accept or reject my decision before 30 August 2023.

Rachael Williams
Ombudsman