

## The complaint

Mr B has complained that Western Circle Ltd trading as Cashfloat ("Cashfloat") didn't carry out appropriate due diligence before it lent to him. Mr B says that if Cashfloat had carried out further checks, it would've seen evidence of Mr B's gambling.

## What happened

Mr B was advanced one loan of £700 on 17 November 2022. Mr B was due to make six monthly repayments of £210.15. Mr B has had some problems repaying his loan and according to the latest information from Cashfloat an outstanding balance still remains due.

Cashfloat wrote to Mr B in its final response letter and explained why it didn't consider an error had been made by providing the loan. Unhappy with this response, Mr B referred the complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator, and he didn't uphold it because he concluded that Cashfloat had carried out proportionate checks - which showed the loan to be both affordable and sustainable for Mr B.

Mr B didn't agree with the findings. He said that he had a gambling addiction and while his salary was checked by Cashfloat, it wasn't being paid into his bank "*as a measure to curb my addiction*". He also said Cashfloat ought to reviewed his bank statements to check his spending habits before agreeing to lend to him.

Later, Mr B provided copy bank statements for September, October and November 2022 – which showed not just the gambling, but also showed the salary wasn't being received by Mr B into that account either, as it was going into his partner's account.

No agreement could be reached and so the complaint has been passed to me to resolve.

## 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 short-term lending - including all the relevant rules, guidance and good industry practice - on our website. And I've used that to help me decide this complaint.

Firstly, I'm sorry to hear about Mr B's circumstances, but from the complaint form it does seem that things have improved for him, which I am glad to hear.

When Mr B applied for the loan, Cashfloat had to assess the lending to check if Mr B could afford to pay back the amount he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Cashfloat's checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr B'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 Cashfloat should have done more to establish that any lending was sustainable for Mr B. These factors include:

- Mr B 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 B 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 B 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 B. The adjudicator didn't think this applied to Mr B's complaint and I would agree as there was only one loan.

Cashfloat was required to establish whether Mr B could *sustainably* repay the loan – 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 B was able to repay his loans sustainably. But it doesn't automatically follow that this is the case.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mr B's complaint.

Before the loan was approved, Cashfloat took details of Mr B's income and expenditure. Cashfloat recorded that Mr B worked full time and received a monthly salary of £2,500. Cashfloat checked this income with Mr B and it received a copy of his payslip from October 2022. This payslip showed that Mr B received a salary of nearly £3,500 per month.

Despite the payslip showing significantly more income than Mr B had declared, Cashfloat erred on the side of caution and used the lower sum of £2,500 for its affordability assessment. Mr B has also showed, through his bank statements, that while that may have been his income at the time, it wasn't being paid into his account – he said it was being paid into this partner's account.

I can see from the bank statements he has provided that no salary was received into his account, but Cashfloat didn't know this at the time. For a first loan, and with verifying Mr B's income, I think Cashfloat did enough in relation to the income and I wouldn't have expected it to have known, or reasonably assumed that the salary Mr B was receiving wasn't being paid into his account.

Cashfloat also made enquiries about his living costs, which Mr B declared to be £700 per month. It's worth saying here that Cashfloat says that it assessed Mr B's monthly expenditure using what it calls "*trigger values*" – taken from a well-known debt charity and these values take account of an applicant's job, location, homeowner status to name a few factors.

Having used these trigger values, it estimated Mr B's monthly outgoings were, at a maximum, likely to be £1,010 and, again to err on the side of caution, to that it added a further buffer of £300 – these were the figures used for Cashfloat's affordability assessment.

Even using the larger monthly outgoings along with the buffer, there was still sufficient disposable income for Mr B to be able to afford the repayments for the loan.

It doesn't appear that Cashfloat carried out a credit search before the loan was approved. But there was no regulatory requirement to do one. So, the fact no credit search was likely conducted isn't a reason to solely uphold the complaint.

The overall lending pattern such as the amount that was advanced wouldn't, in my view, have triggered further checks from Cashfloat or led it to conclude that the loan was unsustainable.

Based on the checks that Cashfloat did do, I'm satisfied these were proportionate to the circumstances of the loan. So, although Mr B has helpfully provided copy bank statements for the months before the loan was approved, in this case, I don't think it would've been proportionate for Cashfloat to have considered them.

As such, this also means that Cashfloat wouldn't have discovered Mr B's gambling. There also isn't anything else in what I've seen in the information that Cashfloat collected, to suggest that it ought to have reasonably known that Mr B was gambling either. And as Cashfloat wasn't aware (or ought to have been reasonably aware) of Mr B's gambling I can't say that in the circumstances of this complaint that Cashfloat did anything wrong.

Taking account of the lending relationship I think it was reasonable for Cashfloat to have relied on the information Mr B provided to it and the results of its own checks. There also wasn't anything to suggest that Mr B was having either current financial difficulties or to indicate the loan repayment would be unsustainable for him.

Taking everything into account, I do not uphold Mr B's complaint, an outstanding balance remains due. I would remind Cashfloat of its regulatory obligation to treat Mr B fairly and with forbearance if necessary.

### **My final decision**

For the reasons I've outlined above, I am not upholding Mr B's complaint.

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

Robert Walker  
**Ombudsman**