The complaint

Mrs M has complained that Western Circle Ltd trading as Cashfloat ("Cashfloat") gave her loans which she couldn't afford to repay. Mrs M says at the time she had numerous outstanding payday loans at the time.

What happened

A summary of Mrs M's borrowing can be found below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	largest repayment per loan
1	£400	12/09/2018	23/11/2018	2	£294.22
2	£600	11/12/2018	25/02/2019	2	£441.24
3	£750	25/02/2019	28/06/2020	4	£299.35

Mrs M has had some problems repaying her final loan and was only able to do so by agreeing to a repayment plan.

Cashfloat wrote to Mrs M with a final response letter and explained why it didn't consider an error had been made by providing these loans and so it didn't uphold her complaint. But it did say, as a way to resolve this matter it would make a goodwill payment of £150.

Mrs M didn't accept this offer and instead referred the complaint to the Financial Ombudsman Service. Cashfloat has confirmed the goodwill offer is no longer available.

An investigator considered the complaint, and she didn't uphold it. She said proportionate checks had been conducted which showed the loans were affordable. She also concluded Cashfloat was entitled to rely on the information it was given, even if it wasn't entirely accurate. Finally, she said that Cashfloat had acted reasonably and in line with the credit agreement when it agreed the repayment plan for the third loan.

Mrs M didn't agree with the assessment, saying Cashfloat took advantage of her difficult financial position and didn't perform adequate credit checks. As no agreement could be reached, the complaint has been 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.

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.

Cashfloat had to assess the lending to check if Mrs M could afford to pay back the amounts she'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 Mrs M'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 Mrs M. These factors include:

- Mrs 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);
- Mrs M 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 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 Mrs M. The investigator didn't think this applied to Mrs M's complaint and I agree, as there were only three loans taken within a short period of time.

Cashfloat was required to establish whether Mrs M could *sustainably* repay the loans – not just whether she technically had enough money to make her repayments. Having enough money to make the repayments could of course be an indicator that Mrs M was able to repay her 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 Mrs M's complaint.

Before these loans were approved, Cashfloat took details of Mrs M's income and expenditure. Cashfloat recorded that Mrs M worked full time and received a monthly salary of between £2,660 and £2,710. Cashfloat says her declared income was cross referenced with a third-party salary tool, and the results were positive, indicating a high degree of accuracy. It was therefore reasonable for Cashfloat to have relied on what Mrs M declared and the results of its checks.

Cashfloat also made enquiries about her living costs, which Mrs M declared to be between £750 and £800 per month. It's worth saying here that Cashfloat says it assessed Mrs M's monthly expenditure using what is 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 done so, Cashfloat says that it didn't feel it needed to make any adjustments to the figures declared to it by Mrs M. Based on the declared information provided these loans looked affordable.

Cashfloat has also said that Mrs M provided details of her partner's income which added to its confidence that she'd be able to make these repayments. I accept that the partner's income would've perhaps given Cashfloat extra reassurance. But it had no idea what the partner's expenditure was. So, I fail to see how knowing the income was, on its own, enough.

Indeed, Mrs M had told us that she was the sole income earner for the family and so that casts doubt on this figure. But what is clear, is that for the affordability assessment while

Cashfloat was told about another income it wasn't used to determine whether Mrs M could afford these loans.

Before the loans were approved, Cashfloat also carried out a credit search and it has provided the Financial Ombudsman with a copy of the results it received from the credit reference agency for each loan. I want to add that, although Cashfloat carried out credit searches, there wasn't a regulatory requirement to do one, let alone one to a specific standard. But what Cashfloat couldn't do, is carry out a credit search and then not react to the information it received – if necessary.

Cashfloat was also entitled to rely on the information it was given by the credit reference agency and so I've looked at the results Cashfloat received to see whether there was anything contained within it, that would've either prompted Cashfloat to have carried out further checks or possibly have declined Mrs M's application.

Cashfloat was told about active accounts Mrs M had which included other loan accounts, payday loans, current accounts, credit cards and mail order. There was no adverse credit file data such as defaults, insolvencies or any missed payments. So, it would've been entirely fair and reasonable of Cashfloat to have concluded that Mrs M was managing her existing credit commitments without any obvious problems.

However, for each loan Cashfloat was on notice that the amount Mrs M declared as part of her application for credit commitments / loan payments couldn't be correct and I say this because the credit search indicated that Mrs M's outgoings were significantly more. For example, for loan 1, Mrs M declared these costs came to £200 per month whereas the credit file data suggested her outstanding loans and other commitments came to at least £800 per month.

What I think Cashfloat ought to have done was to substitute the figures it was provided by the credit reference agency into the outgoings declared by Mrs M – and it didn't do this. So, although Cashfloat didn't fully react to the information provided, because it didn't account for the increased credit commitments Mrs M had, nonetheless had it factored the information from the credit file into its affordability assessment it would've reached the same conclusions – that these loans were affordable.

Cashfloat was told that, Mrs M did have outstanding payday loans. She had two running when loans 1 and 2 were granted and 1 other outstanding payday loan when loan 3 was running. While this does show that Mrs M was using other payday loan companies while borrowing from Cashfloat I don't think that the number she had outstanding at the time at this point in the relationship would've altered Cashfloat's decision to lend. Or have led Cashfloat to conclude she was likely having wider financial difficulties.

The overall lending pattern including the amounts that were borrowed wouldn't, in my view, have at the points the loans were granted have triggered further checks from Cashfloat or led it to conclude that the loans were unsustainable.

Based on the checks that Cashfloat did do, I'm satisfied these were proportionate to the circumstances of each loan. I say this because Mrs M's borrowing history – including the amounts borrowed, the way Mrs M repaid the loans, as well as what Cashfloat discovered through its checks - wouldn't, in my view have led it to be believe that it needed to go further, such as reviewing his bank statements or obtaining any other information. In my view, to have reviewed the bank statements would've been disproportionate in the circumstances.

I therefore do not uphold Mrs M's complaint about Cashfloat's decision to provide these loans.

My final decision

For the reasons I've outlined above, I am not upholding Mrs M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 3 April 2024.

Robert Walker
Ombudsman