

## **The complaint**

Mrs B complains that Western Circle Ltd, trading as Cashfloat, lent to her irresponsibly.

## **What happened**

Mrs B took one loan from Western Circle on 3 October 2021 for £600 plus interest to be repaid over four instalments of just under £234 each month. The total to repay was £954.

Mrs B paid it off a little earlier than planned in January 2022 and then in 2024 complained to Western Circle. It responded and did not uphold her complaint. Mrs B referred it to the Financial Ombudsman Service where one of our investigators considered it. She issued two views both explaining that after the income and expenditure figures had been calculated, plus the new loan payments added in, Mrs B would have been left with too small an amount each month left over for it to be affordable. So, the outcome was that the complaint about the irresponsible lending was upheld.

Our investigator addressed the issues surrounding the high interest charged by Western Circle and did not consider it had charged too much considering the 'cost cap' for these types of loans. So, that part was not upheld.

Mrs B agreed with our investigator for the loan lending and made no comment about the interest issue. So, from that I take it that Mrs B has nothing further to add about the interest charged. So, I have not reviewed that part of the complaint as I consider it resolved.

Western Circle disagreed with the irresponsible lending part and I've read all its submissions. It focussed on the costs balanced against her income and what those figures showed. It said:

*'This made a total outgoing of £2,025.75 against an income of £2,480, which left the customer with a disposable income of £454.25 against the highest monthly repayment of £233.92.'*

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.

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. Western Circle had to assess the lending to check if Mrs B 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. Western Circle's checks could've considered several different things, such as how much was being lent, the size of the repayments, and Mrs B'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 Western Circle should have done more to establish that any lending was sustainable for Mrs B. These factors include:

- Mrs 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).
- Mrs 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).
- Mrs B coming back for loans shortly after previous borrowing had been repaid (also suggestive of the borrowing becoming unsustainable).

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

The detailed income and expenditure figures have been set out in the previous correspondence between our investigator and Western Circle. Both parties have received these and so I do not intend to go into the same detail they have done. A summary of Western Circle's position was set out in the 'what happened' part of the decision. Our investigator's figures were similar. They are important to highlight the fact that both Western Circle and our investigator considered it was relatively close on affordability. Mrs B was agreeing to repay just under £234 a month for four months. There are circumstances surrounding an individual's financial position where it does not always come down to pounds and pence. And my view is that Mrs B's situation was one of those.

I do not think a great deal turns on whether Mrs B's income was £2,428 or £2,480 or other such similar figure. And I have explained my view in this decision which will demonstrate why a few pounds on her income figure would not persuade me to reach a different view.

Western Circle itself appeared to have had some concerns on affordability as, despite having carried out the checks it did and having done an Income and Expenditure assessment, still one of its representatives called Mrs B to talk it all through with her. No copy of that call has been sent to us and its not available. But the important factor for me is that Western Circle clearly considered that some additional checks were required and I can see why. The credit search details Western Circle obtained in October 2021 demonstrate why I think this. There are two versions, the credit report itself and the table version. I have reviewed both but the credit report in full gives more details and illuminates Mrs B's financial position.

The credit report results show me that Mrs B had several outstanding loans. The repayments ranged from £29 to £497 each month. When all these were added up they came to a monthly cost of £1,011. But Mrs B was in arrears on two of them – the one costing her £150 a month and the one costing her £497 a month. The credit report marker was '2'.

Mrs B had four credit cards, the total owing across all four was £3,925. So, a 3% monthly minimum repayment figure would be around £118 a month and a 5% minimum repayment figure would come to around £197. But regular repayments of the minimum payment due does not account for the principal outstanding balances owed, and so whichever figure was used it does not account for Mrs B's need to repay the principal sums as well. But again, the overall credit card picture is revealing to demonstrate to me where Mrs B was financially in early October 2021. And I explain here.

One of the cards was slightly over the limit at £809 on an £800 limit. Three cards had been taken out in quick succession in April 2021, May 2021, and June 2021, a few short months before Mrs B was applying to Western Circle for £600. One of these new cards had a balance of £2,060 on a £3,500 limit and although no formal adverse credit markers had been recorded I could see that she'd paid nothing towards it for five months.

The other two new credit cards seemed to be fine and Mrs B had been paying towards them. One balance was £871 on a £900 limit and the other was £185 on a £200 limit.

So, although Mrs B still had credit room on the card with £3,500 limit, she'd not paid anything towards it for a while. And the others were close to their maximums. But the other feature was that Mrs B had taken three cards out in three months. This suggests she was in dire need of credit.

Adding up these figures - £1,011 for her loans each month, £118 using a 3% figure for her outstanding credit cards, £988 (provided by Mrs B for rent and utilities and food) plus £234 for the new Western Circle loan adds up to £2,351. But then there are more pressures on Mrs B. I explain below.

Turning to Mrs B's current accounts – on one she had a £1,390 overdraft limit of which she had used £1,371 and so was close to being in her unauthorised overdraft. The unusual element which clearly showed on the credit search record Western Circle has sent us was that on the other current account, her overdraft had increased exponentially from £0 in April 2021 to £4,078 overdrawn in August 2021. This was the same period she'd been applying for (and had obtained) three credit cards as I explained earlier in this decision. Having looked at her other complaint that Mrs B has with us about that overdraft, I understand that the limit was £4,000 for that overdraft.

So, looking at her existing loan concerns, her credit card situation, and the overdrafts then Mrs B had absolutely no cash with which to pay off arrears or start to pay down the Western Circle loan. As Mrs B had been having trouble repaying her existing loans and cards and had greatly increased her overdraft situation then I doubt she'd be able to afford a further £234 each month. And it's clear to me that Mrs B was taking the Western Circle loan to pay off other debt which is a sign of financial stress.

So, I agree with our investigator that the calculations of affordability Western Circle had carried out were 'tight' by which I mean that Mrs B may have been able 'on paper' to afford the Western Circle loan. But when this application for the £600 is placed within the context of the overall picture presented by her credit report then I do not consider that offering Mrs B further credit was a responsible action. I consider that Mrs B was unable to afford this loan and I uphold the complaint.

### **Putting things right**

In deciding what redress Western Circle should fairly pay in this case I've thought about what might have happened if it had not lent to Mrs B at all as I'm satisfied it ought not to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Mrs B may have simply left matters there, not attempting to obtain the funds from elsewhere. If this wasn't a viable option, she may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, she may have decided to approach a third-party Western Circle with the same application, or indeed a different application (i.e. for more or less borrowing). But even if they had done that, the information that would have been available to such a Western Circle and how they would (or ought to have) treated an application which may or may not have been

the same is impossible to reconstruct now accurately. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new Western Circle would have been able to lend to Mrs B in a compliant way at this time.

Having thought about all these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Mrs B would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Western Circle's liability in this case for what I'm satisfied it has done wrong and should put right.

Western Circle shouldn't have given Mrs B the loan and it should do as follows:

- A) Western Circle should add together the total of the repayments made by Mrs B towards interest, fees, and charges on the loan,
- B) Western Circle should calculate 8% simple interest\* on the individual payments made by Mrs B which were considered as part of "A", calculated from the date Mrs B originally made the payments, to the date the complaint is settled.
- C) Western Circle should pay Mrs B the total of "A" plus "B".
- D) Mrs B's credit file needs to be amended to remove any adverse credit information for this loan if applicable.

I've considered whether the relationship between Mrs B and Western Circle might have been unfair under s.140A of the Consumer Credit Act 1974.

However, I'm satisfied the redress I have directed should be carried out for Mrs B results in fair compensation for her in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

\*HM Revenue & Customs usually requires Western Circle to deduct tax from this interest. It should give Mrs B a certificate showing how much tax it has deducted if she asks for one.

### **My final decision**

My final decision is that I uphold Mrs B's complaint in part and I direct that Western Circle Ltd, trading as Cashfloat, does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 25 April 2025.

Rachael Williams  
**Ombudsman**