

## The complaint

Mr D has complained that Western Circle Ltd trading as Cashfloat (“Cashfloat”) gave him loans without carrying out sufficient affordability checks.

## What happened

A summary of Mr D’s borrowing can be found in the table below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	largest instalment amount
1	£300	12/06/2018	31/08/2018	3	£137.97
2	£200	01/09/2018	31/10/2018	2	£134.87
3	£250	13/11/2018	10/12/2018	2	£156.85
gap in lending					
4	£550	13/07/2021	18/07/2021	3	£263.35
gap in lending					
5	£1,000	05/12/2022	30/08/2023	9	£199.40
gap in lending					
6	£600	02/04/2024	28/06/2024	6	£173.40
7	£900	01/10/2024	outstanding	7	£256.95

Mr D had some problems repaying the final loan and that is currently being repaid through a payment plan with a well-known debt advice organisation.

Cashfloat partly upheld Mr D’s complaint – it agreed loans 6 and 7 only shouldn’t have been granted. Mr D was unhappy with this offer and instead referred his complaint to the Financial Ombudsman.

The complaint was then reviewed by an Investigator, who didn’t uphold loans 1 – 3 and he didn’t review loans 6 and 7 because an offer had already been made. The Investigator said the credit check results received for loans 4 and 5 indicated that Mr D was already having financial difficulties and so those loans were also upheld.

Cashfloat didn’t agree with the Investigator’s findings to uphold loans 4 and 5. In summary it said;

- Loans 4 and 5 were granted after a significant break in lending.
- Before loan 4 there were no delinquent accounts in the preceding 12 months.
- The most recent default had occurred in November 2020 and since the default Mr D had been granted other lending.
- Before loan 4 was granted Cashfloat called and spoke to Mr D.
- By loan 5, Mr D’s overall debt had reduced by around £5,000.
- The most recent default was around 10 months before this loan.

These points didn't change the Investigator's mind and so 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 Mr D 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. 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 D'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 D. These factors include:

- Mr D 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 D 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 D 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 D. The Investigator didn't think this applied to Mr D's complaint and I would agree, given the number of loans and the gaps in lending.

Cashfloat was required to establish whether Mr D 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 D was able to repay the 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 D's complaint.

### **Loans 1 – 3**

The Investigator didn't uphold Mr D's complaint about these loans and neither party disagreed with the outcome reached. As such these loans are no longer in dispute I say no more about them.

### **Loans 6 and 7**

Following Mr D's complaint Cashfloat accepted that these loans ought to not have been granted and it offered a refund to Mr D which appears to be in line with the approach taken by the Financial Ombudsman had we upheld the complaint about these loans.

As Cashfloat has upheld these loans they are no longer in dispute and so I say no more about them. But I have set out at the end of this decision what Cashfloat needs to do and what it has already agreed to do to put things right for Mr D.

#### **Loan 4**

This was the first loan in over 30 months. What this means for Cashfloat's checks is that it could've treated Mr D's application afresh as if he was a new customer. So, although this was his fourth loan in total, for the purposes of its affordability assessment it could've treated Mr D's application as if it was the first loan of a new chain.

Cashfloat took details of Mr D's income and expenditure and carried out a credit search before this loan was granted. It recorded Mr D worked full time and received a monthly salary of £2,500.

Cashfloat didn't just rely on what Mr D declared instead it gathered payslip from Mr D from June 2021 – so only the month before the loan was approved. This payslip showed that in the month Mr D received a net salary of £2,226. This figure was then used for the affordability assessment which was fair and reasonable.

Cashfloat also made enquiries about his living costs – including credit commitments, rent and other costs. Mr D declared these to be £1,013 per month. Cashfloat assessed Mr D'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. It also used Mr D's credit file to check the accuracy of his declared monthly credit commitments.

Having used these trigger values, it estimated Mr D's monthly outgoings were more than he declared and were likely around £1,532 per month. However, even with this buffer and the monthly repayment Cashfloat could see the monthly repayments to Mr D were affordable.

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. And this is where the crux of the issue is – the Investigator said the credit check results were concerning enough that it ought to have declined the application.

Firstly, there were four defaults recorded on Mr D's credit file – but all had been applied to the account within the previous 10 months. One default from September 2020 and then three in November 2020. At the time, Mr D was making monthly repayments of £59 per month against a total defaulted debt balance of £5,997. In the circumstances of this complaint. I can't say these defaults were historic. Clearly Mr D had experienced recent financial difficulties.

In addition to the four defaults, Mr D was in a payment arrangement with a mail order account which had started six months before this loan was granted. There was also a further loan granted a year before this loan that Mr D had entered into a payment arrangements almost immediately – he ought to have been paying £329 per month but instead was only paying £94 per month. Finally, there appear to have been a further loan that was subject to a recent arrangement.

So, Mr D's credit file showed four defaults relatively close to this start date of this loan and he had a further three accounts that were subject to reduced payments. Notwithstanding that this was the first loan of a new chain, the credit checks provided by Cashfloat demonstrated

that Mr D was already in financial difficulties and therefore was unlikely to be able to sustainably afford the repayment for this loan and knowing that it shouldn't have lent to him.

I uphold Mr D's complaint about the decision to lend this loan.

## **Loan 5**

There was then around a 17-month gap between Mr D repaying loan 4 and returning for loan 5. As with loan 4, this gap was big enough for Cashfloat to have in effect treated loan 5 as the first loan of a new chain.

As before, Cashfloat took details of Mr D's income and expenditure and carried out a credit search before the loan was granted. Mr D had declared his income had increased since loan 4 and he earned £2,500 per month. Cashfloat cross checked his earnings, and I think that was proportionate for the start of a new lending chain.

Mr D also told Cashfloat that his monthly living costs were no more than £1,455 per month. Cashfloat then cross checked what it was told by using its trigger values and using information obtained from the credit reference agencies. These extra checks led Cashfloat to increase Mr D's living costs to around £1,707 per month. All of this information together showed Cashfloat that Mr D would be able to afford these loans.

The credit check results have also been provided by Cashfloat – and in view supported that Mr D's financial difficulties had continued. Cashfloat knew since the granting of loan 4 a further two accounts had defaulted. One in February 2022 and one in May 2021. This is in my view further evidence that Mr D's difficulties – were extending over several years – indeed 6 accounts had defaulted in a little under two years.

Mr D had continued to have difficulties repaying two loans and a mail order account – these were subject to payment arrangements and so Mr D was demonstrating that he wasn't in a position to return to normal monthly contracted payments.

I've noted what Cashfloat says about it not being unusual for there to be some adverse payment information and I would agree -but what Mr D's credit file showed was over a sustained period of time he was struggling to meet his existing credit commitments as and when they became due. It therefore wasn't fair nor reasonable to extend further borrowing to Mr D at this time.

I say this because there was a real risk that Mr D wasn't in a position to afford the repayments to this loan in a sustainable manner. I am therefore also upholding Mr D's complaint about loan 5.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for Mr D in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

## **Putting things right**

Cashfloat shouldn't have given Mr D loans 4, 5, 6 and 7.

If Cashfloat has sold the outstanding debt it should buy it back if it is able to do so and then take the following steps. If Cashfloat can't buy the debts back then it should liaise with the new debt owner to achieve the results outlined below.

- A. Cashfloat should add together the total of the repayments made by Mr E towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything you have already refunded.
- B. It should calculate 8% simple interest\* on the individual payments made by Mr D which were considered as part of “A”, calculated from the date Mr D originally made the payments, to the date the complaint is settled.
- C. Remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Mr D as though they had been repayments of the principal on all outstanding loans. If this results in Mr D having made overpayments then Cashfloat should refund these overpayments with 8% simple interest\* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. It should then refund the amounts calculated in “A” and “B” and move to step “E”.
- D. If there is still an outstanding balance then the amounts calculated in “A” and “B” should be used to repay any balance remaining on outstanding loans. If this results in a surplus, then the surplus should be paid to Mr D. However, if there is still an outstanding balance then Cashfloat should try to agree an affordable repayment plan with Mr D – if it hasn’t already done so.
- E. Remove any adverse information recorded on Mr D’s credit file in relation to loans 4, 5, 6 and 7.

\*HM Revenue & Customs requires you to deduct tax from this interest. Cashfloat should give Mr D a certificate showing how much tax it has deducted, if he asks for one.

### **My final decision**

For the reasons set out above, I uphold Mr D’s complaint in part.

Western Circle Ltd trading as Cashfloat should put things right for Mr D as directed above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr D to accept or reject my decision before 2 March 2026.

Robert Walker  
**Ombudsman**