

**complaint**

Mrs G says Elevate Credit International Limited T/A Sunny ('Sunny') irresponsibly lent to her.

**background**

This complaint is about five short term loans Sunny provided to Mrs G between 22 November 2016 to 1 May 2017. Mrs G's borrowing history is as follows (I have rounded the figures for ease of reference):

Loan	Date Taken	Date Repaid	Instalments	Amount	Highest Monthly Repayment Amount
1	22/11/2016	28/04/2017	6	£100.00	£25.00
2	03/04/2017	08/12/2017	6	£200.00	£85.00
3	06/04/2017	08/12/2017	6	£100.00	£114.00
4	29/04/2017	08/12/2017	6	£150.00	£134.00
5	01/05/2017	21/07/2017	6	£50.00	£148.00

Our adjudicator partially upheld Mrs G's complaint. He didn't think loans 1 to 3 should be upheld but did think loans 4 and 5 shouldn't have been given. Sunny disagreed and the complaint was passed to me.

Mrs G's representative didn't provide anything further for my consideration.

**my findings**

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 of the relevant rules, guidance and good industry practice - on our website.

Sunny needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mrs G could repay the loans in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Sunny should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a consumer's 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 *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

I think that it is important for me to start by saying that Sunny was required to establish whether Mrs G could sustainably repay her loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the relevant regulations define sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mrs G's complaint. I won't be looking at loans 1 to 3. Mrs G didn't provide anything further to the adjudicator's opinion that these three loans shouldn't be upheld.

In November 2016, when Mrs G first borrowed from Sunny, she declared a relatively low monthly income of £563. It remained the same when she took loan 2. When Mrs G took loan 3 her monthly income had increased to £932 but loans 1 and 2 were still outstanding. And for loan 4 I accept that loan 1 had been paid off the day before but loans 2 and 3 were still outstanding and still had five months to run.

At that point the monthly cost of the loans was £133 from what was still a relatively modest declared monthly income of less than £950. There hadn't been any breaks in the borrowing in the previous five months during which time Mrs G was indebted to Sunny and her indebtedness was growing.

With all of this in mind, Sunny should have been doing a much more thorough review of Mrs G's financial situation to make sure it understood whether Mrs G would be able to sustainably repay loan 4, and shortly afterwards loan 5.

I think the fact that Mrs G had several loans running concurrently, and taken within such a short time period, might also have suggested she was having problems with managing her finances. And if Sunny had done what I deem to be proportionate checks at the point Mrs G applied for loan 4, it would have had a much clearer understanding of her financial situation and realised Mrs G was struggling.

I've had the opportunity to see Mrs G's bank statements and from these I see there were a substantial number of transactions with on-line gambling businesses. And in these circumstances, I don't think it was likely Mrs G would be able to sustainably repay her loans.

So in conclusion I am upholding Mrs G's complaint that she shouldn't have given loans 4 and 5.

### **putting things right – what Sunny needs to do**

- refund all interest and charges Mrs G paid on loans 4 and 5;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement†;
- remove any negative information about 4 and 5 from Mrs G's credit file;

† HM Revenue & Customs requires Sunny to take off tax from this interest. Sunny must give Mrs G a certificate showing how much tax it's taken off if she asks for one.

### **my final decision**

For the reasons given above, I'm partially upholding Mrs G's complaint. Elevate Credit International Limited T/A Sunny should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 17 January 2020.

Catherine Langley  
**ombudsman**