

complaint

Miss A complains that SLL Capital Limited was irresponsible to lend her money as it didn't do enough checks to make sure the repayments were affordable.

background

Miss A had ten instalment loans from SLL Capital between August 2011 and October 2013 as follows:

No	Ref	Date	Loan	Term	Payment	Due	Status
1	*861	5 Aug 2011	£200	?	£139.02	?	Repaid 2 Feb 2012
2	*862	1 Sep 2011	£100	2m	£133.09	28 Oct 2011	On time
3	*704	1 Nov 2011	£200	4m	£144.50	28 Feb 2012	Repaid 27 Apr 2012
4	*869	28 Nov 2011	£175	3m	£253.33	28 Feb 2012	On time
5	*785	30 Dec 2011	£58	4m	£244.17	27 Apr 2012	On time
6	*974	13 Mar 2012	£249	4m	£122.51	28 Jun 2012	Added to loan 8
7	*996	28 Mar 2012	£113	4m	£199.50	27 Jul 2012	Added to loan 8
8	*779	27 Apr 2012	£140	4m	£234.00	28 Aug 2012	Repaid 31 Dec 2012
9	*437	15 Oct 2013	£150	2m	£98.25	28 Nov 2013	Added to loan 10
10	*176	31 Oct 2013	£75	3m	£145.00	28 Jan 2014	Repaid 27 Jun 2014

Miss A says she had loans with other short-term lenders and that SLL Capital shouldn't have approved multiple loans. She adds that its collections technique was aggressive.

SLL Capital says it carried out credit checks and that Miss A's score was within its lending criteria. It says it also asked Miss A about her income and expenditure and the figures she provided showed the loans were affordable. SLL Capital says it consolidated loans 6, 7 and 8 and agreed a repayment plan, as Miss A couldn't work due to ill-health. It says it verified Miss A's income and expenditure before lending again, but Miss A couldn't repay loans 9 and 10. SLL Capital says a court formally decided Miss A owed it loans 9 and 10.

Our adjudicator recommended the complaint should be upheld in part. He considered SLL Capital did enough checks before approving the first three loans, but its checks should have been better for the other loans. He was satisfied that, had SLL Capital done proportionate checks for loans 4 onwards, it would've found Miss A couldn't afford repayments on loans 6 to 10. He said SLL Capital should refund the interest and charges on these loans (plus 8% statutory interest) and remove any associated negative information from her credit file.

SLL responded to say, in summary, that Miss A had a responsibility to declare accurate information and that should have included her gambling spend. It added that this service should not be considering loans 9 and 10 as a court had decided Miss A owed the money.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

SLL Capital was required to lend responsibly. It should have made checks to make sure Miss A could afford to repay the loans before it lent to her. Those checks needed to be proportionate to things such as the amount Miss A was borrowing, and her lending history. But there was no set list of checks SLL Capital had to do.

Loans 1 to 3

SLL Capital has been unable to locate the loan agreements for the first two loans, but I can see from Miss A's bank statements that she needed to make a scheduled repayment of £139.02 on the first loan. Miss A then paid £133.09 in September 2011 for loans 1 and 2 combined. As both these payments were a small proportion of the £1,700 income she'd declared, I'm satisfied SLL Capital found Miss A's first two loan applications affordable.

Miss A still hadn't repaid loan 1 when she applied for the third loan and, as the application was her third in quick succession, I'd have expected SLL Capital to have asked Miss A about her regular expenditure too. SLL Capital did this and calculated she had a disposable income of over £1,200. So I can't conclude the £144.50 repayment on loans 1 and 3 was unaffordable to Miss A.

Loan 4

When Miss A applied for her fourth loan, the maximum scheduled repayments on loans 3 and 4 totalled over £250 – excluding any payments towards loan 1. At this point I consider a proportionate check should have included asking Miss A whether she had any other short-term loans. I can't see that SLL did this. Had it done so, it would have found Miss A needed to pay over £420 to three other short-term loan providers at the same time as she needed to pay her next instalment to SLL Capital. However, I can't say SLL Capital should have found loan 4 was unaffordable, given Miss A had declared a disposable income over £1,200.

Loans 5 to 10

For the remaining loans, I consider a full financial review would have been proportionate. I say that because many of the loans came in quick succession, and there was a history of repaying the loans later than the original due date.

For all the loans, I can see that Miss A's income was roughly in line with what she'd declared i.e. £1,700.

For loan 5, Miss A says she was paying her board to her parents and I can see regular transfers of about £300 each month just after she was paid. On top of this Miss A spent roughly £100 on food each month and had regular financial expenditure of about £240. With professional fees of £23 per month, I find Miss A's regular monthly expenditure was about £660 per month. This left her with just over £1,000 of disposable income. However, Miss A was also borrowing money from other short-term lenders and needed to make payments of almost £200 to three other lenders shortly after taking out loan 5. Despite this, and even taking into account over £400 Miss A spent on gambling the previous month, I'm satisfied SLL Capital would have found Miss A could afford the £244 payment she needed to make.

When Miss A applied for loans 6 to 8, I can see she had an additional loan repayment to make so her regular financial expenditure increased to just over £400. This left her with less than £900 disposable income.

For loan 6, Miss A needed to pay almost £500 to other short-term loan providers, but her gambling had escalated and her net gambling outlay was about £650 in February 2012. SLL Capital would have seen this if it had carried out a full financial review so I find it was irresponsible to approve loans 6 and 7.

By loan 8, Miss A needed to pay about £1,000 to other short-term lenders in the month following the loan and her gambling outlay, net of winnings, was almost £1,800. Clearly this meant loan 8 was unaffordable. SLL Capital agreed a repayment plan for loan 8, including the outstanding debt on loans 6 and 7 and Miss A repaid it at the end of December 2012.

It was over nine months later when Miss A applied for her ninth loan, but, given her previous repayment history, I consider a full financial review was again proportionate. I acknowledge SLL Capital says it did this by asking Miss A for her bank statements, but based on the information it provided, I can only see a portion of her bank statement which shows her income going into her bank account. Looking at Miss A's full bank statements I can see she was now paying £650 per month in rent, about £150 on council tax and roughly £200 on phone/TV costs. She spent an additional £200 on food and travel. This left Miss A with a disposable income of £500. However, she was still using other short-term lenders and needed to pay one of those almost £400 before the end of October 2013. So I can't agree that loans 9 and 10 were affordable, even though her gambling was much reduced.

I accept that there was a County Court Judgement that said Miss A owed SLL Capital the money for loans 9 and 10, however, that is not what I'm considering here. This decision is based on whether I find SLL Capital should have lent Miss A the money in the first place. As I find loans 9 and 10 were unaffordable to Miss A, it is fair and reasonable that she should only repay the principal and not the interest or any charges.

Finally, I acknowledge the personal and family circumstances that may have contributed to Miss A's reliance on short-term borrowing, however, as far as I can see, SLL Capital responded by offering her a repayment plan as soon as it found out about her difficulties. I can't say it should reasonably have known of her circumstances before that, so I'm satisfied SLL Capital would have found loans 1-5 affordable based on the information it had, or should have had. I also accept that Miss A says SLL Capital's collections technique was aggressive, but it was entitled to pursue her for the outstanding debt.

In summary, I don't consider SLL Capital should have approved loans 6 to 10.

my final decision

My decision is that I uphold this complaint in part. SLL Capital Limited should:

- Refund all interest and charges that Miss A paid on loans 6-10;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
- Remove any negative information about loans 6-10 from Miss A's credit file.

*HM Revenue & Customs requires SLL Capital to take off tax from this interest. SLL Capital must give Miss A a certificate showing how much tax it's taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 15 June 2018.

Amanda Williams
ombudsman