

complaint

Mr M says Western Circle Limited (trading as Cashfloat) lent to him irresponsibly.

background

Mr M had three loans with Cashfloat. I've summarised some of the information Cashfloat provided about the loans in the table below.

Loan no.	Amount	Start date	End date	Instalments
1	£500	05/04/2017	25/07/2017	4 x £190
2	£500	27/07/2017	30/10/2017	4 x £201
3	£600	30/10/2017	07/01/2018	4 x £239

An adjudicator considered Mr M's case and his initial recommendation was that it should be upheld in respect of loans 2 and 3. Cashfloat didn't accept this and provided some further information as well as an explanation of some of the credit check data it had provided. Our adjudicator then revised his view and recommended the complaint be upheld in respect of loan 3 only.

Cashfloat didn't respond to the second view. Mr M did; he accepted the adjudicator's recommendation not to uphold the first loan but thought loans 2 and 3 were lent irresponsibly. As there was no agreement and no response from Cashfloat, the case was passed to me to decide. As there is no ongoing disagreement regarding loan 1, I've not commented on that loan in my decision.

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.

Cashfloat 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 Mr M 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.

Cashfloat has provided some information and evidence about the checks it carried out before lending to Mr M. For each loan it asked Mr M about his income and expenditure (what Mr M declared is summarised in the table below) and also carried out credit checks.

Income	Other income	Food	Travel	Utilities	Loan repayments	Other credit	Rent or mortgage
£1,050	£675	£100	£25	£25	£150	£50	£300

Cashfloat also says it applied adjustments and increased some of the declared figures, such as the utilities figures, to take account of national averages.

I think the sort of checks Cashfloat carried out for loan 2 were proportionate. Cashfloat's credit checks did suggest Mr M's credit commitments were higher than he'd declared and also revealed he'd had a relatively high number of short-term loans from other lender in the 12 months before loan 2. But I think taking into account the information it had, including both that provided by Mr M and the information from the credit bureau, was proportionate in all the circumstances which were relevant at the time.

I can understand why Mr M disagrees with this. He questions why Cashfloat didn't carry out further checks given that he borrowed £500 again so soon after repaying loan 1, despite Cashfloat having estimated he had similar levels of disposable income. He also thinks the disparity between his declared credit commitments and those Cashfloat discovered via its credit search ought to have led to further investigation. Additionally, he doesn't think it was right for Cashfloat to rely solely on data from one credit bureau as this didn't fully reflect his financial situation, nor did it pick up on debts not reported to that particular credit bureau.

I don't think any of these points, even when taken together, are sufficient for me to reasonably say Cashfloat acted irresponsibly by providing loan 2. There was no regulatory requirement for Cashfloat to carry out a credit check and if it did, there was no rule to say it had to carry out credit checks with any particular bureau, or to do so in any particular way. And I don't think Cashfloat acted unreasonably by relying on a combination of information provided by Mr M and information it sourced independently. I also don't think one instance of reborrowing soon after repaying a loan ought to have prompted the sort of in-depth affordability checks (like asking for proof of income and expenditure, such as bank statements) which would have been necessary to show loan 2 was likely to be unaffordable. I also don't think the number of loans Mr M had from other lenders ought to have prompted that level of checks at this stage.

But for loan 3, I think it was much clearer, from the information Cashfloat obtained before lending, that Mr M had an amount of outstanding short-term debt which was so significant that he was unlikely to have been able to repay loan 3 in a sustainable manner. The credit report also suggests Mr M wasn't simply using the loans to meet unexpected expenses or cashflow problems but that there was likely some other kind of underlying issue. So I'm upholding the complaint about loan 3.

I'd add, although it makes no difference at this point to the outcome, that I don't agree with the adjudicator that Cashfloat's affordability checks were proportionate for loan 3. Mr M made the same declarations for his credit commitments when applying for each loan – but Cashfloat's checks suggested Mr M's credit commitments were very different, especially for loan 3. So I do think Cashfloat's checks should've gone further, including asking Mr M for some form of proof of income and expenditure. Had Cashfloat done this, I think it would've seen that Mr M's financial position was even worse than its own checks suggested. I've seen evidence that Mr M had even greater levels of debt than Cashfloat's credit checks detected and I've also seen evidence of significant expenditure on gambling. So had Cashfloat carried out more detailed checks, it again would've seen that Mr M wasn't in a position to repay loan 3 in a sustainable manner.

putting things right

Cashfloat must refund the interest and charges Mr M paid on loan 3, adding interest at 8% simple per year, from when he paid the interest and charges, until the date of settlement[†]. Cashfloat must also remove from Mr M's credit history any adverse information it has recorded about loan 3.

† HM Revenue & Customs requires Cashfloat to take off tax from this interest. Cashfloat must give Mr M a certificate showing how much tax it's taken off if he asks for one.

my final decision

I uphold Mr M's complaint in part. Western Circle Ltd must put things right by taking the steps set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 February 2020.

Matthew Bradford
ombudsman