

## complaint

Mr M complains that Elevate Credit International Limited, trading as Sunny, gave him loans he couldn't afford to repay.

## background

Mr M took out the following loans with Sunny:

	date	£ amount borrowed	£ amount to be repaid/ repayment period / £ weekly repayment (rounded)	date repaid
1	3 August 2016	2,500	4,830 / 60 weeks/ 80	25 August 2016
2	25 August 2016	1,000	1,925/ 60 weeks / 32	
3	28 November 2016	100	190 / 60 weeks / 3	28 March 2017
4	2 April 2017	300	572 / 60 weeks /10	

In response to Mr M's complaint, Sunny refunded interest and charges in relation to loan one, paid interest and applied that refund to loan two. It also offered to remove information about loan one from Mr M's credit file. Mr M said Sunny shouldn't have given him loans two, three and four either.

Our adjudicator said the checks Sunny did before loan two were proportionate. She said Sunny should've also asked Mr M about any other short-term financial commitments before loan three but, if it had done that, it wouldn't have made any difference here.

The adjudicator said before loan four, Sunny should've carried out a thorough review of Mr M's financial situation. She said if it had done that, it would've seen that Mr M couldn't afford to repay further borrowing. The adjudicator set out what Sunny should do to put that right.

Sunny responded to say that as there was an outstanding capital balance on loan four, it proposed to write off the capital balance on that loan and amend the credit file. Mr M didn't accept that as he maintained that Sunny shouldn't have given him any of the loans, so he said it should write off what he owes on loans two and four. As there was no agreement, the complaint was passed to me.

## my findings

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

Before agreeing to lend to Mr M, Sunny had to check each time that he could afford to make the repayments. The checks it did had to be proportionate. What's proportionate depends on things like the size of the loan repayments and the information it had about Mr M. There's no set list of the checks a lender should carry out.

Sunny has already dealt with loan one in the same way we would direct it to, if we upheld that part of Mr M's complaint. So, I don't need to make a determination on that loan but I've taken it into account as part of Mr M's lending history with Sunny.

I agree with the adjudicator that the checks Sunny carried out for loan two were proportionate. That loan was near the beginning of Mr M's borrowing from Sunny and, based on the information Sunny had, Mr M could afford the repayments.

I think Sunny should've done more than it did before loan three. Whilst loan three was for a relatively modest amount, Mr M hadn't repaid loan two. I think Sunny should've also asked Mr M about other short-term financial commitments before loan three. I agree with the adjudicator that, if it had done that, it wouldn't have altered the outcome here, as it would've appeared that Mr M could afford to repay loan three.

When Mr M applied for loan four, loan two was still outstanding. In the circumstances and taking into account the amounts Mr M had to repay as against his income and the pattern of his borrowing, proportionate checks before loan four are likely to have established a much fuller picture of his financial position. I think proportionate checks before loan four would've meant that Sunny took steps to verify the information Mr M provided about his financial situation.

As Sunny doesn't appear to have carried out proportionate and sufficient checks, I can't say for sure what it would've found out had it done so. Mr M has provided us with evidence of his financial circumstances at the time he applied for loan four. So I've been able to get a picture of what his financial circumstances were like. Of course, I accept that this isn't perfect, as different checks show different things. And just because something shows up in the information Mr M has now provided, it doesn't mean that it would've shown up in any checks that Sunny might've carried out. But the information Mr M has provided is the best indication I have of what his financial circumstances were at the relevant time. In the absence of anything else, I think it's reasonable to rely on it.

Based on what I've seen, I think that if Sunny had carried out proportionate checks before loan four, it would've concluded that Mr M couldn't afford to repay further borrowing. That's because Mr M had a considerable amount of other debt and was spending large amounts on gambling. Proportionate enquiries would've shown that. So, I don't think Sunny should've given Mr M loan four.

The adjudicator's proposed resolution of this complaint is fair and reasonable and in line with what I'd ask Sunny to do. But Sunny has offered to do more than that. It's offered to write off the remaining capital balance on loan four. Generally, we don't ask lenders to write off the capital. That's because the borrower has had the use and benefit of the money, so it's right that the borrower repays the capital.

I note that Mr M thinks Sunny should also write off the balance he owes on loan two. I'm afraid I don't agree. For the reasons I've set out above, I don't think Sunny was wrong to give Mr M loan two. There's no basis on which to ask it to write off that loan. I'd encourage Mr M to contact Sunny to arrange a repayment plan for loan two.

**my final decision**

In accordance with its offer, I now require Elevate Credit International Limited, trading as Sunny, to write off the balance Mr M owes in relation to loan four and remove any negative information about that loan from Mr M's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 20 December 2017.

Louise Povey  
**ombudsman**