

The complaint

Mr C complains through a representative that Shelby Finance Ltd trading as Dot Dot Loans (Shelby) provided him with loans without carrying out appropriate affordability checks.

What happened

Mr C was granted five loans by Shelby, I've outlined his borrowing history in the table below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	highest repayment per loan
1	£500.00	08/08/2019	21/02/2020	6	£161.84
2	£600.00	12/03/2020	23/09/2020	6	£190.24
3	£300.00	01/10/2020	21/03/2021	6	£85.68
gap in lending					
4	£200.00	09/10/2021	21/01/2022	3	£109.34
5	£350.00	02/02/2022	22/07/2022	6	£107.06

Shelby considered the complaint and concluded it had made a reasonable decision to provide these loans because it had carried out proportionate checks before each loan was approved. The results of these checks showed Shelby Mr C could afford the loans.

Unhappy with this response, Mr C's representative referred the complaint to the Financial Ombudsman. It also provided copies of Mr C's bank statements.

The complaint was considered by an adjudicator, who didn't uphold it. She said, taking account of the break in the lending chain - Shelby had carried out proportionate checks before each loan was approved which demonstrated Mr C could afford his repayments.

Mr C's representative didn't agree and instead asked for an ombudsman's final decision. As no agreement has been reached, the case has been passed to for a final decision.

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 this type of lending - including all the relevant rules, guidance and good industry practice - on our website.

Shelby had to assess the lending to check if Mr C 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. Shelby'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 C'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 Shelby should have done more to establish that any lending was sustainable for Mr C. These factors include:

- Mr C 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 C 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 C 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 C. The adjudicator didn't consider it reached the point in either lending chain where this applied.

Shelby was required to establish whether Mr C 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 C was able to repay his loans sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that payments are sustainable if they are made without undue difficulties and in particular, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mr C's complaint.

Having reviewed the lending history I am also satisfied that there are two chains of lending. The first chain loans 1 – 3 and the second chain contains loans 4 and 5. There are two chains because there is a significant break of around seven months between Mr C repaying loan 3 and returning for loan 4.

Due to the significant break, it would be reasonable for Shelby to have treated Mr C's applications afresh and if he were a new customer. So, although, loan 4 was his fourth loan in total, it was in fact the first loan of a new chain and that does have consequences for what a proportionate check may have included.

Having looked at everything, including accounting for the break in the lending chain, I'm satisfied Shelby carried out proportionate checks before each loan was granted which showed it that Mr C would be able to afford his loan repayments. I am therefore not upholding Mr C's complaint and I've explained why below.

Before each loan was approved, Shelby asked Mr C for details of his income, which he declared ranged from £1,200 to £1,450 per month. Mr C also declared monthly outgoings of between £450 and £865 per month. This left the smallest amount of disposable income when loan 3 was approved of £425 to afford the payment of £110. Based solely on the information Shelby collected all the loans appeared affordable.

As part of the application, Shelby “*overlaid*” what Mr C had declared about his expenditure with data from two different sources and if needed made adjustments. Firstly, it used Office of National Statistics (ONS) data and secondly, it used information from Mr C’s credit search (which I’ll go into in more detail below).

Therefore, after the ONS data and credit search results were factored into the income and expenditure assessment – Shelby reduced Mr C’s disposable income for some of the loans. For example, for loan 1, it increased Mr C’s outgoings from the self-declared amount of £450 to £728 per month. This reduced Mr C’s disposable income from £850 to £572 per month. However, even when Shelby made adjustments to the disposable income that Mr C had declared, he still had sufficient disposable income to be able to afford the repayments he had to make.

Before these loans were approved Shelby also carried out a credit search and it has provided a summary of the results it received from the credit reference agency. It is worth saying here that although Shelby carried out a credit searches there isn’t a regulatory requirement to do one, let alone one to a specific standard. But what Shelby couldn’t do is carry out a credit search and then not react to the information it received – if necessary.

Having reviewed the credit check results, there isn’t anything in any of the results that would’ve indicated that Mr C was having financial difficulties, for example it knew there were no insolvency markers, or debt management plans.

Shelby was also aware that only when loan 3 was approved, he had one other active payday loan account – but that alone wouldn’t be enough to say that Shelby needed to do further checks.

In my view, there wasn’t anything in the credit check results that ought to have led Shelby to either have carried out further checks such as reviewing bank statements or prompted it to have declined Mr C’s application for credit.

Overall, there was also nothing else in the information that I’ve seen that would’ve led Shelby to believe that it needed to go further with its checks – such as verifying the information Mr C had provided. So, while Mr C’s representative has provided his bank statements, in this case, it would’ve been disproportionate for Shelby to have considered them.

Given the evidence provided, I think it was reasonable for Shelby to have relied on the information Mr C provided about his income and expenditure to show he had sufficient disposable income to afford the repayments he was committed to making. There also wasn’t anything else to suggest that Mr C was having financial difficulties or that these loans would be unsustainable for him.

I’m therefore not upholding Mr C’s complaint.

My final decision

So, for the reasons I’ve explained above, I’m not upholding Mr C’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr C to accept or reject my decision before 2 August 2023.

Robert Walker
Ombudsman

