

The complaint

Mr B, through his representative, complains that Western Circle Ltd lent to him irresponsibly.

What happened

Using information from Western Circle, here is a table of the approved loans.

Loan No	Borrowed Date	Closed Date	Borrowed Amount	Term in months	Repayment Amount
1	13/09/2019	26/10/2019	£200	2	£147.90
2	09/11/2019	20/12/2019	£350	2	£217.94
3	20/12/2019	27/03/2020	£500	3	£259.26
4	27/03/2020	15/06/2020	£600	3	£277.36
gap					
5	03/01/2021	11/02/2021	£700	3	£338.15
6	04/03/2021	27/05/2021	£500	3	£235.45
7	07/06/2021	12/06/2021	£400	3	£187.70
gap					
8	13/04/2022	30/05/2022	£400	3	£220.50
9	13/06/2022	27/06/2022	£400	3	£220.40
10	27/08/2022	-	£1,500	6	£436.10

Western Circle received Mr B's complaint and issued its final response letter (FRL) in November 2022. It gave reasons why it considered it had carried out the right checks, it did not uphold Mr B's complaint but made a good will offer in relation to loans 4 and 7. This offer has been withdrawn.

Mr B's representative referred his complaint to the Financial Ombudsman Service. It sent to us all the bank account statements Mr B wished us to see covering the lending relationship and some from earlier than loan 1 as well.

Our adjudicator received a lot of information from Western Circle including his application forms in which he declared income and outgoings and that he lived with his parents. In addition, copies of the credit reference agency searches carried out before each lending decision plus the copy payslip for Mr B dated 27 February 2020 (loan 4) and one set of bank account statements for August 2022 – just before loan 10.

Our adjudicator considered it carefully but her view was that she did not uphold the complaint.

Mr B responded through his representative to explain that he worked double the usual hours to get the wage amounts he'd declared and his bank statements would show that he also had to repay family and friends. He said:

'These are standing orders which my family have got loans out for me so they will not show up as debt also.'

Our adjudicator responded to say that in her view Western Circle would not have known that he worked double the hours expected of him and that Western Circle would not have known of the family debts unless Mr B had told it and she'd seen no evidence of that.

Mr B's representative said that its client was clearly dependant on short term loans and in a continuous cycle of borrowing throughout the history with Western Circle and asked for a review.

The unresolved complaint was passed to me to decide.

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.

Western Circle had to assess the lending to check if Mr B 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. Western Circle's checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr B's income and expenditure.

I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Western Circle should have done more to establish that any lending was sustainable for Mr B. These factors include:

- Mr B 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 B having a large number of loans and/or having these loans over a long period (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);
- Mr B 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 B.

Western Circle was required to establish whether Mr B 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 B 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, 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 B's complaint.

Gaps in lending

The two breaks in the lending of seven and ten months were enough for me to consider it reasonable for Western Circle to treat the first loan applications immediately after the breaks as if Mr B was approaching it as a new customer. Our adjudicator had this view and I concur. And I say that because for Mr B to not need Western Circle's credit for significant periods would mean that it was reasonable of it to approach his applications for loans 5 and 8 as from a person who was applying to it afresh.

That means that Western Circle was entitled to consider that a proportionate check would have been relying on the information Mr B gave to it on the application forms. These would have been treated as first loans in new loan chains. But as Western Circle has explained in its FRL and in its submissions to the Financial Ombudsman it did more than that for each loan application. I go into more detail later in the decision.

Proportionate checks

As well as relying on the information Mr B gave to it, Western Circle did ask for a payslip at loan 4 which showed the hours he worked (including that he did overtime) and it asked for a copy bank statement for the period leading up to 27 August 2022 (loan 10).

Plus, it obtained credit searches for Mr B for each loan which was more than the regulation covering irresponsible lending required. We have been sent all of those and I have reviewed them.

Loans 1 to 4

For loans 1 to 3 which were for modest sums over modest repayment periods then I'd say that the checks Western Circle did were proportionate. It received information that Mr B lived at home with his parents and as Western Circle has submitted to us, that indicates that

'...the FCA state that lenders are only required to take account of non-discretionary expenditure in the affordability calculations, and as he was living with his parents his rental cost was likely to be discretionary in nature.'

And what I would add is that Mr B's situation was unlikely to be one where he was going to have difficulty paying priority bills such as utilities and rent as he was living with family. These are reasonable approaches to take when Mr B indicated this information on his application forms.

For loans 1 to 3 Mr B declared income of around £2,800/£2,900 a month after tax and his expenditure did not exceed his income at all – even after Western Circle had increased some of it having viewed his credit commitments.

And Western Circle has explained that it verified the income declarations using the credit reference agency tool which *'...which uses actual bank data to check whether the applicant has in fact received the income figure provided.'*

For loan 4 Mr B was asked for a copy of his payslip as well. This confirmed his pay for the month up to 27 February 2020 was £3,172.55. So, loan 4 was easily affordable.

I have thought about what Mr B has said about him having to work additional hours. This payslip does show that his basic pay was £2,088 (before tax) and the overtime was £1,841.

But Western Circle could have concluded that loan 4 was affordable even if it had used his basic pay (after it had calculated the tax deductions). So even if Western Circle had asked him for more information about his overtime work and how regular that was or was likely to be, for loans 1 to 4, I doubt it would have made a difference.

Other elements I have considered relate to any adverse information on Mr B's credit search results as carried out by Western Circle. He did have three defaults, and they were all in 2017 which would have been a couple of years before loans 1 and 2. And so I do not consider that those on their own was information likely to have made a difference to Western Circle's decision to lend. My view on this does alter at loan 8 and I come back to this later in the decision.

Overall, I consider Western Circle carried out proportionate checks and I do not uphold the complaint about loans 1 to 4.

Loans 5 to 7 in the second loan chain

These loan applications were for similar amounts to loans 1 to 4 and still were for relatively modest sums and over relatively short loan terms. There were small gaps between the loans and each loan in this loan chain was smaller than the last. And as Mr B's repayment history developed then Western Circle would have factored that good record into its creditworthiness assessment for the subsequent loans as it was reasonable of it to do.

For these loans Mr B had declared income of between £2,800 and £3,000 a month and as Western Circle has already said, it verified his income using the same tool as before. So, it had no reason to doubt these figures.

Inevitably Mr B was paying more for other credit commitments, as his debt level overall had increased, but a significant part of his debt balance related to a hire purchase agreement for which he had been paying, and was continuing to pay, £222 a month. The repayment histories were good and the same adverse credit entries relating to the defaults from 2017 remained but of course were even more historic by this point.

But overall, I consider that Western Circle carried out checks I'd consider proportionate and the information it had would not likely have altered its decision to lend.

I do not uphold the complaint about loans 5 to 7.

Loans 8 to 10 in the third loan chain

Mr B had declared income of £1,600 after tax each month when he approached Western Circle for loan 8. And the expenditure appeared to be lower than the income he'd declared even after Western Circle had increased it after reviewing his credit search results. And the verification check for his income was likely to have come back as a positive verification as I've seen evidence that his income for April 2022 was in fact around £2,800 after tax. So Mr B had more income than he'd declared to Western Circle.

The credit search carried out at loan 8 did show a difference. A default had been entered in January 2022 which was just a few months before Mr B had applied for loan 8. Plus, another account was marked as being delinquent.

However, in fairness to Western Circle, I have accepted that the significant break in the lending before loan 8 does mean that I consider it reasonable for Western Circle to have approached loan 8 as if it was the first loan in a new loan chain. I explained this earlier in the decision.

Added to this was the fact that Western Circle did obtain the credit check rather than simply rely on the information Mr B had supplied to it. And viewing those results independently from the earlier credit search results, as it was a new loan chain, then the overall debt was not high. And the adverse entries may have been a concern but likely not when considering the application was for a £400 over a short term of three months.

Mr B's overall debt was £4,606 mainly made up of his hire purchase account balance for which there were no adverse entries at all. And as this was a new loan chain, even if Western Circle had viewed this independently of any historic records about Mr B I doubt it would have thought that £4,600 in debt overall was a high debt value.

Having considered this carefully I do not think that Western Circle needed to have done more than it did.

For loan 9 my view is the same. The checks that Western Circle carried out before approving loan 9 were proportionate. Mr B had declared an income of £1,800 and the verification check Western Circle carried out was likely to have come back as a positive reading as in fact Mr B earned more than that – his 27 May 2022 salary pay was £2,438.

The credit check showed a headline set of information:

Total Balances (All): £4,163
Total Balances (Loans/instalment Credit): £2,452
Total Balances (Revolving Credit/Budget): £200
Number of Active Accounts: 6

This was a relatively low value loan over a short term and only the second loan in this third loan chain and so considering the circumstances overall I think Western Circle did what it was expected to have done before approving Mr B's application for loan 9.

I do not uphold the complaint about loan 9.

Considering Mr B's application for loan 10 then I do agree with our adjudicator that a different approach likely was required. It was only the third loan in this loan chain but it was for almost four times the amount he'd taken for loans 8 and 9 and he was asking to repay it over six months. Western Circle had carried out a credit search as well and his overall debt level had increased which is what would have been another reason for Western Circle to have carried out additional checks.

Western Circle seemed to have held that view as it did ask Mr B for a set of bank account statements or transactions before lending. And I have noted that there's a difference in the bank statement submitted to us by Western Circle, covering transactions in August 2022 and printed as being dated '27 August 2022' and the version for the same month sent to us as part of Mr B's referral to us. Mr B's version is a page longer and is dated '17 January 2023'.

Mr B's salary credited his account on 26 August 2022 and was for £2,727. And having reviewed all the transactions that Western Circle would have seen in its version of the bank statements, then I do not consider that it was likely to have formulated the view that Mr B was in financial difficulties or unable to repay the loan.

There were some indications of some betting and gaming transactions but they are infrequent and not for large sums. And viewing bank statements for the first time and seeing a few entries relating to betting and gaming are not necessarily enough for me to consider it reasonable for Western Circle to have refused the loan.

There was a credit into the account which is labelled as '*balance sheet inte*'. And although I'm not entirely sure what that relates to I do not consider it anything other than a positive label as it suggests an interest payment from somewhere. So, my view is that a Western Circle representative would not have been prompted to ask for more details about a £1,000 credit with that transaction label attached. And so, it seems that Mr B received some additional income.

Although Mr B has said that he was borrowing from friends, I can't see from these bank account transactions that this was obvious or that any of them are labelled 'loans' or that Mr B was repaying any one individual regularly which might have indicated repayments from an earlier loan.

Western Circle funded loan 10 and so it appeared to have been of the view that the bank account transactions did not reveal any concerns.

So overall, reviewing the information Western Circle saw from its own checks and the research it did, I do not consider that it lent irresponsibly at loan 10.

I do not uphold Mr B's complaint about loan 10.

My final decision

My final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 29 August 2023.

Rachael Williams
Ombudsman