DRN-4096136

The complaint

Mr T complains Shelby Finance Ltd trading as Dot Dot Loans ("Shelby") provided him with a loan without carrying out adequate affordability checks.

What happened

Mr T was granted one loan by Shelby on 19 August 2022 for £300. Based on the statement of account Mr T was due to make six monthly repayments of £96.30. Mr T has had some problems repaying the loan and an outstanding balance remains.

Shelby considered the complaint and concluded it had made a reasonable decision to provide the loan based on proportionate checks. Unhappy with this response, Mr T referred his complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator, who didn't uphold it. She said, Shelby had carried out proportionate checks before the loan was approved which demonstrated Mr T could afford his repayments.

Mr T didn't agree saying at the time he had a poor credit score, two missed payments within the last six months and a total of five defaults. Mr T provided a screen shot of his credit file to support this. As no agreement has been reached, the case has been passed to an ombudsman 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 T could afford to pay back the amount 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 T'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 T. These factors include:

- Mr T 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 T 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 T 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 T. The adjudicator didn't consider it applied in Mr T's complaint.

Shelby was required to establish whether Mr T could *sustainably* repay the loan – 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 T was able to repay his loan 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 T's complaint.

Before the loan was approved, Shelby asked Mr T for details of his income, which he declared as being £2,290 per month. Shelby also says this amount was cross referenced with a credit reference agency for its accuracy.

Mr T declared monthly outgoings of £1,399. However, as part of the application, Shelby "*overlaid*" what Mr T had declared about his expenditure with data from two different sources. Firstly, it used Office of National Statistics (ONS) data and secondly, it used information from Mr T's credit search (which I'll go into in more detail below). And having done so, Shelby made an adjustment to his living costs.

It increased Mr T's outgoings to £1,663 each month, which still left £627 to enable Mr T to make the repayment of around £96. Based solely, on this data the loan looked affordable.

Before the loan was 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 search 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 T was having immediate financial difficulties, for example it knew there were no insolvency markers, or debt management plans. There also wasn't anything within the results that indicated Mr T was reliant on these sorts of loans. And while the results did show some defaults, these had all been recorded more than 12 months before the loan was advanced.

I accept the screen shots that Mr T provided show missed payments within the months leading up the loan being approved, but that didn't appear to have been reflected in the information Shelby asked for and received from the credit reference agency. And as I think it was reasonable for Shelby to have relied on the results, its checks didn't need to go further.

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 T had provided by reviewing his bank statements. 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 T gave about his income and expenditure which showed he had sufficient disposable income to afford the repayments he was committed to making. There also wasn't anything else to suggest that Mr T was having financial difficulties or the loan would be unsustainable for him.

I'm therefore not upholding Mr T's complaint.

An outstanding balance remains due, and I would remind Shelby's obligation to treat Mr T fairly and forbearance if he needs assistance in repaying the outstanding balance.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 17 August 2023.

Robert Walker
Ombudsman