

The complaint

Mr S has complained that Western Circle Ltd trading as Cashfloat ("Cashfloat") didn't carry out sufficient affordability checks before it granted loans to him.

Mr S has also said that Cashfloat mis-used his personal information by sending an email to his works email address.

What happened

A summary of Mr S's borrowing can be found below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	largest repayment per loan
1	£500.00	03/11/2022	15/11/2022	4	£191.20
2	£1,000.00	25/11/2022	outstanding	10	£184.65

Cashfloat has issued two final response letters in response to Mr S's complaints. The first one dealt with whether the loans were irresponsibly provided and Cashfloat concluded it hadn't made an error and had carried out proportionate checks.

In relation to the email that was sent to Mr S's works address, Cashfloat again says it didn't do anything wrong. But as a gesture of goodwill Cashfloat removed Mr S's work email address from its system.

Unhappy with these responses, Mr S referred the complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator, and she didn't uphold either element of it. In summary, this was because she thought the checks Cashfloat had carried out were proportionate – and they showed the loans to be affordable. She also said that Cashfloat's offer to remove Mr S's work email address from its system was reasonable.

Mr S didn't agree with the adjudicator's assessment saying in summary:

- He had defaults on his credit file at the time from one payday lender and a high-cost loan provider.
- Mr S had £4,000 of credit card debt and he was utilising over 90% of his available credit.
- There weren't any active County Court Judgements (CCJ)s but there had been 3 "*in recent times*".
- Mr S provided a list of creditors which he had at the time of approaching Cashfloat for these loans including his credit card, loans and revolving credit facility.
- The way Mr S repaid loan 1 and then took loan 2 ought to have been of a concern to Cashfloat and prompted it to do more checks.
- Cashfloat increased Mr S's outgoings by £300 and so this shows that the information he had provided was incorrect and ought to have led to further checks.

- Mr S said all emails had been sent to his personal email account and he would respond to any emails or calls from Cashfloat. So, there was no reason for Cashfloat to use his works email address.

As no agreement could be reached the case has been passed to me to resolve.

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 short-term lending - including all the relevant rules, guidance and good industry practice - on our website.

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

- Mr S 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 S 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 S 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 S. The adjudicator didn't think this applied to Mr S's complaint and I would agree as there were only two loans.

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

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

Before these loans were approved, Cashfloat took details of Mr S's income and expenditure. Cashfloat recorded that Mr S worked full time and received a monthly salary of £2,788 when both loans were granted. Cashfloat says his declared income was checked with a payslip which confirmed the accuracy of it and it was this amount that was used for Cashfloat's affordability checks.

Cashfloat also made enquiries about his living costs, and the same amount was provided for both loans - £1,580. For loan 1, Mr S declared he spent £2,000 per month on food, which

Cashfloat thought was too high, so it says that it contacted Mr S and he confirmed the figure was incorrect and ought to have been £200 per month.

Cashfloat says it added a “buffer” of £300 to Mr S’s declared expenditure so for the affordability assessment Cashfloat believed that Mr S’s monthly outgoings came to £1,880. Even using the larger monthly outgoings along with the buffer, there was sufficient disposable income for Mr S to be able to afford the repayments for both loans.

I don’t think the fact Cashfloat added a buffer to Mr S’s expenditure – which still showed the loans to be affordable ought to have prompted further checks.

It doesn’t appear that Cashfloat carried out a credit search before these loans were approved. But there was no regulatory requirement to do one. So, the fact no credit search was likely conducted isn’t a reason to uphold the complaint on its own.

Mr S has provided a list of creditors that he had at the time – and the total outstanding balances (including the account that had been defaulted) came to just over £9,500. But as a credit search doesn’t appear to have been carried out Cashfloat wouldn’t have known about them. But as part of his application Mr S declared that he spent a total of £700 per month on loan and existing credit commitments.

Loan 1 was repaid much sooner than Cashfloat was expecting – and this was repaid without any obvious difficulties. 10 days later Mr S returned for a much larger loan, to be repaid over a longer term. Mr S says this ought to have been enough to have triggered Cashfloat to carry out further checks.

But I don’t agree. While the loan was taken out shortly afterwards, the monthly repayment Mr S was due to make was only marginally smaller. But thinking what a proportionate check may involve as well as what Cashfloat discovered through its checks wouldn’t, in my view have led it to be believe that it needed to go further, such as reviewing bank statements or verifying the information Mr S had provided.

There also wasn’t anything else, such as the way Mr S repaid his first loans, that would’ve led Cashfloat to believe that it needed to conduct further checks or to have declined his applications for credit.

Taking account of the lending relationship – Mr S was only granted two loans I think it was reasonable for Cashfloat to have relied on the information Mr S provided to it and the results of its own checks. There also wasn’t anything to suggest that Mr S was having either current financial difficulties or to indicate the loan repayments would be unsustainable for him.

An outstanding balance remains due for the final loan, I would remind Cashfloat of its obligation to treat Mr S fairly and with forbearance, if needed.

Taking everything into account, I do not uphold Mr S’s complaint about Cashfloat’s decisions to provide the loans to him.

Email address

Mr S has said he is unhappy that he received an email from Cashfloat to his works email address – rather than his personal email address, which was the one Cashfloat had been using.

Cashfloat says that the works email address was provided as part of the loan applications and I can see from the application data provided by Cashfloat that Mr S did indeed provide his works email address.

A copy of the email sent to Mr S's work address hasn't been provided and I don't know why Cashfloat chose to send an email to his work address, when Mr S has said he responded to the ones sent to his personal email address. But to reach an outcome about this, I don't think I need to know why Cashfloat sent it.

I say this because, Cashfloat was entitled to use the email address (either personal or work) to contact Mr S about his account. And I've not seen anything to suggest that Mr S had asked Cashfloat (before the email was sent) not to use his work address.

Therefore, Cashfloat removing his work address from its systems – as it outlined in the final response letter was the right and reasonable course of action to take and no further award is needed. I therefore do not uphold this part of Mr S's complaint.

My final decision

For the reasons I've outlined above, I am not upholding Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 11 December 2023.

Robert Walker
Ombudsman