

## The complaint

Miss E has complained that Western Circle Ltd trading as Cashfloat (“Cashfloat”) gave her loans which she couldn’t afford to repay.

## What happened

A summary of Miss E’s borrowing can be found below.

| loan number | loan amount | agreement date | repayment date | number of monthly instalments | largest repayment per loan |
|-------------|-------------|----------------|----------------|-------------------------------|----------------------------|
| 1           | £300.00     | 16/03/2023     | 31/03/2023     | 3                             | £136.30                    |
| 2           | £300.00     | 17/05/2023     | 31/05/2023     | 3                             | £165.80                    |
| 3           | £550.00     | 06/07/2023     | outstanding    | 5                             | £180.10                    |

Cashfloat wrote to Miss E with a final response letter and explained why it didn’t consider an error had been made by providing these loans and so it didn’t uphold her complaint. But it made a gesture of goodwill to resolve this matter, which was that it would reduce Miss E’s balance by £50. There was some negotiation after this point about a settlement but Miss E didn’t accept it and instead referred the complaint to the Financial Ombudsman Service. Cashfloat has now said the offer has been withdrawn.

An Investigator considered the complaint, and he concluded the checks carried out by Cashfloat were proportionate and showed the loans to be affordable. Miss E didn’t agree with the assessment and so the complaint has been 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.

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 Miss E could afford to pay back the amounts she’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 Miss E’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 Miss E. These factors include:

- Miss E 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);
- Miss E 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);
- Miss E 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 Miss E. The investigator didn't think this applied to Miss E's complaint and I agree, as there were only three loans taken.

Cashfloat was required to establish whether Miss E could *sustainably* repay the loans – not just whether she technically had enough money to make her repayments. Having enough money to make the repayments could of course be an indicator that Miss E was able to repay her 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 Miss E's complaint.

Before these loans were approved, Cashfloat took details of Miss E's income and expenditure. Cashfloat recorded that Miss E worked full time and received a monthly salary of between £2,400 and £2,500. This income was checked before each loan with a copy payslip and so in my view this check was proportionate.

Cashfloat also made enquiries about her living costs, which Miss E declared to be between £1,680 and £1,980 per month. It's worth saying here that Cashfloat says that it assessed Miss E's monthly expenditure using what it calls "*trigger values*" – taken from a well-known debt charity and these values take account of an applicant's job, location, homeowner status, to name a few factors.

Having done so, Cashfloat says that it didn't feel it needed to make any adjustments to the living cost figures declared to it by Miss E. An adjustment was made for the first loan in relation to the credit commitments, but I deal with that later in this decision. Based on the declared information provided these loans looked affordable.

Before the loans were approved, Cashfloat also carried out a credit search and it has provided the Financial Ombudsman with a copy of the results it received from the credit reference agency for each loan. I want to add that, although Cashfloat carried out credit searches, there wasn't a regulatory requirement to do one, let alone one to a specific standard. But what Cashfloat couldn't do, is carry out a credit search and then not react to the information it received – if necessary.

Cashfloat was also entitled to rely on the information it was given by the credit reference agency and so I've looked at the results Cashfloat received to see whether there was anything contained within them that would've either prompted Cashfloat to have carried out further checks or possibly have declined Miss E's application.

The first thing to say is that part of the credit search check was to confirm whether the amounts Miss E had declared to Cashfloat for her other credit commitments was accurate. For loans 2 and 3 the information given by Cashfloat indicated that perhaps Miss E had overestimated her monthly credit commitments – but it does seem that for the affordability assessment Cashfloat went with the figures provided by Miss E.

However, for loan 1, there were some concerns about the information it received, and I say this because Miss E's credit commitments were around £400 *more* per month than she had

declared, and that along with the rest of the other living costs potentially made the first loan unaffordable.

As a result of these concerns Cashfloat spoke to Miss E about her living costs – a copy of the call has been requested but Cashfloat says it's no longer available. However, it is clear from the changes made to Miss E's affordability that she gave slightly different information about her living costs than she had as part of her application.

The main difference was that her travel costs had decreased from £500 per month to £50 per month. As I said, I don't have a copy of the call and so don't know the context in which that decrease occurred, but I would say that for all remaining loans Miss E's travel costs have been noted as £50 per month. But, for the first loan, given it had verified Miss E's income and had spoken to her I'm still persuaded this check went far enough and showed the loan to be affordable.

Turning to the rest of the credit search data, Cashfloat was told about active accounts Miss E had and so the cost to service them each month was known to Cashfloat. The amounts it calculated, and which were used for the affordability assessment seems accurate.

There were no defaults recorded within the three years before these loans were approved, but 5 had been recorded between 2018 and 2019. But these were reported too long before these loans were granted to have given Cashfloat any cause for concern.

Miss E's active accounts appeared to have been managed well. She had missed a monthly payment due for a hire purchase agreement in October 2022. And while after this date, she had restarted payments, she hadn't made up the missed payment which is why the account was showing as being "1" month in arrears across all of the credit checks. Cashfloat would've seen and known this and I don't think what effectively was one missed payment suggested Miss A was having or likely having current financial difficulties.

The credit checks weren't sufficient in my view to have either prompted further checks or for Cashfloat to have declined Miss E's applications.

Based on the checks that Cashfloat did do, I'm satisfied these were proportionate to the circumstances of each loan. I say this because Miss E's borrowing history – including the amounts borrowed, the way Miss E repaid the loans, 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 his bank statements or obtaining any other information. In my view, to have reviewed the bank statements would've been disproportionate in the circumstances.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Cashfloat lent irresponsibly to Miss E or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

I therefore do not uphold Miss E's complaint about Cashfloat's decision to provide these loans. An outstanding balance remains due, and I would remind Cashfloat of its obligation to treat Miss E fairly and with forbearance.

### **My final decision**

For the reasons I've outlined above, I am not upholding Miss E's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 2 August 2024.

Robert Walker  
**Ombudsman**