

complaint

Mrs M complains that Active Securities Limited (trading as 247 Moneybox) gave her loans that she couldn't afford to repay.

background

Mrs M was given 12 loans by 247 Moneybox between January 2016 and January 2017. She has been unable to repay her final loan and a balance still remains. A summary of her borrowing is as follows;

Loan Number	Borrowing Date	Repayment Date	Loan Amount
1	07/01/2016	25/01/2016	£ 80
2	25/01/2016	29/01/2016	£ 155
3	29/01/2016	07/02/2016	£ 230
4	07/02/2016	23/03/2016	£ 381
5	29/03/2016	28/04/2016	£ 351
6	04/05/2016	27/05/2016	£ 365
7	31/05/2016	09/06/2016	£ 360
8	05/07/2016	14/07/2016	£ 419
9	20/07/2016	25/08/2016	£ 401
10	25/08/2016	23/09/2016	£ 400
11	27/09/2016	14/11/2016	£ 452
12	10/01/2017	-	£ 300

When Mrs M first complained to 247 Moneybox it offered to write off the outstanding balance on her last loan as a gesture of goodwill. Mrs M declined that offer and brought her complaint to this Service.

Mrs M's complaint has been assessed by one of our adjudicators. He thought that 247 Moneybox had done enough checks before giving Mrs M the first two loans. But he thought the lender should have done more checks before the remaining loans were agreed. And he thought that better checks would have shown 247 Moneybox that Mrs M couldn't afford to repay those loans. So he asked 247 Moneybox to pay Mrs M some compensation.

Disappointingly 247 Moneybox hasn't responded to that assessment so the complaint has been passed to me, an ombudsman, to decide. This is the last stage of our process. If Mrs M accepts my decision it is legally binding on both parties.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

247 Moneybox was required to lend responsibly. It needed to make checks to see whether Mrs M could afford to pay back each loan before it lent to her. Those checks needed to be proportionate to things such as the amount Mrs M was borrowing, and her lending history, but there was no set list of checks 247 Moneybox had to do.

The Financial Conduct Authority was the regulator at the time Mrs M took her loans from 247 Moneybox. Its regulations for lenders are set out in its consumer credit sourcebook (generally referred to as "CONC"). These regulations – in CONC 5.3.1(2) - require lenders to take *"reasonable steps to assess the customer's ability to meet repayments under a regulated credit agreement in a sustainable manner without the customer incurring financial difficulties or experiencing significant adverse consequences."* CONC 5.3.1(7) defines 'sustainable' as being able to make repayments without undue difficulty. And explains that this means borrowers should be able to make their repayments on time and out of their income and savings without having to borrow to meet these repayments.

So, the fact that the amounts borrowed and the repayments might have been low in comparison with Mrs M's disposable income, or that she managed to repay most of the loans in full and on time, doesn't necessarily mean they were affordable for her and that she managed to repay them in *a sustainable manner*. In other words I can't assume that because Mrs M managed to repay most of her loans that she was able to do so out of her normal means without having to borrow further.

247 Moneybox has told us about the checks it did before lending to Mrs M. It asked Mrs M for details of her normal income, and regular expenditure. And it says that it asked Mrs M to confirm that she wasn't borrowing from any other short term lenders at the same time.

I think these checks were proportionate for the first two loans that Mrs M took. The amounts she needed to repay were relatively small compared to the income she declared to the lender, and 247 Moneybox hadn't lent to her in the past. I think Mrs M asking for a new loan, of almost double the size, just over two weeks after her first loan might have caused some concern to 247 Moneybox, but on balance I still think the checks were sufficient. So I don't think it was wrong for 247 Moneybox to give the first two loans to Mrs M.

But when Mrs M asked for her third loan, I think 247 Moneybox should have been on notice that it was unlikely Mrs M's financial position was as good as she was declaring. This was now her third request for a loan in the space of little more than three weeks. And the amount she was asking to borrow had substantially increased again. I don't think it was reasonable at this point for 247 Moneybox to rely solely on the information Mrs M was providing about her financial situation. I think it should have been independently verifying that information. And Mrs M continued her borrowing pattern, taking another nine loans, with the loan amounts showing a marked upward trend, over the rest of the year. So I don't think the checks 247 Moneybox did on these loans were proportionate either.

I accept what 247 Moneybox says about Mrs M being asked if she was taking other short term loans at the same time. And in the early stages of its relationship I think it is reasonable that a lender might be able to rely entirely on the information a consumer provides. But in the circumstances of this complaint, I think 247 Moneybox passed that point when Mrs M made her third loan request in the space of as many weeks.

But although I don't think the checks 247 Moneybox did from loan 3 onwards were sufficient, that in itself doesn't mean that Mrs M's complaint should succeed. I'd also need to be persuaded that what I consider to be proportionate checks would have shown 247 Moneybox that Mrs M couldn't sustainably afford the loans. So I've looked at Mrs M's bank statements, and what she's told us about her financial situation, to see what better checks would have shown 247 Moneybox.

The information that Mrs M gave to 247 Moneybox about her income, and normal household expenditure was broadly accurate. If anything she under declared her income, not taking into account things like tax credits, and child benefit payments. And what she said about her normal household bills was broadly correct too – it seems that Mrs M's husband was responsible for most of the large household bills such as the mortgage and utility costs.

But, throughout the time Mrs M was borrowing from 247 Moneybox, she was also borrowing heavily from other short term lenders. And she was spending a large amount each month on what appear to be gambling transactions. Looking at the total amount that Mrs M was spending, she didn't have enough left over to meet the repayments she needed to make on her loans from 247 Moneybox.

I think that if 247 Moneybox had done what I consider to be proportionate checks it would have understood the true state of Mrs M's finances. It would have been aware of the amounts she was borrowing from other short term lenders. And it would have discovered that she was spending heavily on what appear to be gambling transactions. So I think it would have been clear to 247 Moneybox that Mrs M couldn't afford to sustainably repay the loans she was asking for, and as a responsible lender it would have declined her requests. So 247 Moneybox needs to pay Mrs M some compensation.

putting things right

I don't think 247 Moneybox should have agreed to lend to Mrs M after, and including, the loan that she took on 29 January 2016 (loan 3). So for each of those loans Active Securities should;

- Refund any interest and charges paid by Mrs M on the loans.
- Add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement*.
- Remove any adverse information recorded on Mrs M's credit file in relation to the loans.

*HM Revenue & Customs requires Active Securities to take off tax from this interest. Active Securities must give Mrs M a certificate showing how much tax it's taken off if she asks for one.

If Mrs M still owes 247 Moneybox any of the principal balance she borrowed on her final loan, Active Securities may deduct this from the compensation that is due to her. But to be clear, that outstanding balance should be recalculated to remove any interest and charges, but taking account of any repayments Mrs M has made on that loan as though they were applied against the principal sum borrowed.

my final decision

My final decision is that I largely uphold Mrs M's complaint and direct Active Securities Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 30 October 2017.

Paul Reilly
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