

complaint

Mr M complains that MMP Financial Limited (MMP) lent him money without first checking that he could afford to repay it. He says if MMP had carried out appropriate checks it would have realised he couldn't afford the loans he applied for and not lent. Mr M wants MMP to refund the interest and charges he paid on these loans.

background

Mr M took out nine loans between September 2016 and February 2017. They all had payments schedules that varied between one and six months. These are summarised below, and I've rounded amounts to the nearest pound for ease of reading:

Loan number	Date taken	Amount	Number of instalments	Highest payment required	Date repaid	Repaid early?
1	22/09/2016	£100	2	£125	31/10/2016	
2	4/11/2016	£300	3	£148	8/11/2016	Yes
3	28/11/2016	£150	1	£190	30/11/2016	Yes
4	2/12/2016	£200	3	£138	23/12/2016	Yes
5	29/12/2016	£1,100	5	£405	29/12/2016	Yes
6	7/1/2017	£1,000	6	£361	11/1/2016	Yes
7	20/1/2017	£1,040	6	£375	25/1/2107	Yes
8	26/1/2017	£900	5	£335	31/1/2017	Yes
9	10/2/2017	£1,040	6	£381	13/4/2017	Yes

Mr M complained to MMP saying that it shouldn't have agreed these loans. He says he was gambling at the time and also borrowing from other lenders in order to meet his payments. He says he's now in a debt management plan, but that MMP's actions have made his situation worse than it needed to be.

Our adjudicator didn't think MMP carried out sufficient checks before it agreed loans five to nine. She thought if it had carried out proportionate enquiries it wouldn't have lent. She recommended MMP refund all interest and charges on these loans, adding interest to the refund where appropriate. She also thought MMP should remove negative credit entries from Mr M's credit file for these loans.

MMP doesn't agree it did anything wrong. It says a major component of its decisions to lend loans five to nine was the way Mr M conducted his earlier borrowing relationship – in that he frequently borrowed over a period of time and repaid his loans early (with the exception of loan one which he paid on time). It doesn't want to pay any redress.

I've been asked to conclude this complaint.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so I find I've reached the same conclusions as the adjudicator did, for much the same reasons.

Each time MMP lent to Mr M it was required to carry out sufficient checks to satisfy itself that Mr M could afford to repay the loans over the scheduled number of months. And he should have been able to repay them on a sustainable basis, which is normally from known income or savings. There's no set list of checks, but I'd expect them to reflect the amount of the loan, the number of months the loan was to run for and what MMP knew about Mr M's borrowing record. That list isn't exhaustive.

MMP says it based its decisions on information it got from Mr M, credit checks and the amounts Mr M wanted to borrow. It says it took his borrowing history into account too. Each time Mr M borrowed, MMP recorded his income as £1,400 per month and his normal outgoings – rent and food, etc. as £706. It recorded Mr M's regular financial commitments – that is loan payments – as between £192 and £211. So he had between £898 and £917 left to repay his loans from MMP.

loans one to four

Each of these loans was for a relatively small amount – between £100 and £300. The scheduled maximum repayment was never more than £190, and in the main lower than this. And Mr M was repaying these loans early each time, apart from the first which he repaid when due. I think the information MMP collected for these loans was reasonable and I think it was fair for MMP to lend Mr M the amounts he asked for.

loan five

Loan five was somewhat different: it was for a much higher amount, at £1,000 and the repayments were substantially higher too. And by this time MMP should have been aware that Mr M was repeatedly borrowing, often with only a few days between repaying one loan and requesting another. That might signify that Mr M was becoming reliant on this type of borrowing, even if he was repaying the loans early.

I think a proportionate check at this point would be to get a full picture of Mr M's financial situation and verify it before agreeing loan five. If it had done that, it would have seen that Mr M was also borrowing from other short term lenders – his payments in November to these lenders totalled nearly £1,135, which is more than his surplus money after his normal expenses. Additionally Mr M spent about £3,500 on gambling in November. I don't think Mr M could afford to repay loan five, even if payments were spread over several months. I got that information from Mr M's bank statements, although there are other ways MMP could have obtained this information.

loans six to nine

I appreciate that Mr M repaid loan five almost immediately. But I don't think that alone means MMP should have gone on lending to Mr M without carrying out checks on whether his financial situation had improved. If MMP had carried out proportionate checks for loan five, it would know he had borrowings elsewhere and he was gambling more than he could afford from his normal income. I don't think MMP should have agreed any of these later loans without satisfying itself Mr M could repay them on a sustainable basis. From what I've seen Mr M continued to spend heavily on gambling and to borrow from other short term lenders. He was also substantially overdrawn. Mr M simply couldn't afford these loans and his bank statements support what he's told us – he was borrowing from one lender to pay another, and his financial situation was getting steadily worse.

It follows that I'm going to uphold this complaint and direct MMP Financial Limited to put Mr M back in the position he'd have been in if he hadn't been given loans five to nine. I'm not going to ask MMP to refund Mr M the loans he took – he's had that money and spent it. But I will order it to refund interest and charges, add interest to the refund where appropriate and remove negative entries relating to these loans from Mr M's credit file.

my final decision

My decision is that I uphold this complaint in part. I direct MMP Financial Limited to

1. Refund to Mr M the interest that it charged him on loans taken from 29 December 2016 – that's loans five to nine.
2. Pay interest on each of those interest payments at an annual rate of 8% simple from the date of each payment to the date of settlement.
3. Remove any adverse information about the loans from Mr M's credit file.

HM Revenue & Customs requires MMP to deduct tax from the interest payment referred to at 2 above. MMP must give Mr M a certificate showing how much tax it's taken off if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 June 2018.

Sue Peters
ombudsman