

## **complaint**

Ms A has complained about loans granted to her by Wage Day Advance Limited ("Wage Day" or "the lender").

## **background**

The background to this complaint was set out in my provisional decision dated 5 January 2017, a copy of which is attached and forms part of this final decision.

Wage Day agreed five "payday" loans for Ms A between December 2013 and July 2014. It then agreed three instalment loans for her the following October and December.

In my provisional decision I set out why I was minded to partially uphold this complaint. I asked both parties to let me have their final submissions by 6 February. I have received no new representations from either side.

## **my findings**

I have reconsidered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. As neither party has provided any further evidence or arguments for consideration, I see no reason to depart from the conclusions set out in my provisional decision. It follows that I partially uphold this complaint.

## **what Wage Day should do to put things right**

In summary, I've concluded that Wage Day should have done more to check that Ms A could sustainably repay its loans from the time she applied for her fourth payday loan. Had it done so, it would likely have agreed to her fourth and fifth payday loans but it would not have agreed to her instalment loans. So I think Wage Day needs to refund all of the interest and charges Ms A paid for her instalment loans. Specifically, it should:

- refund the interest and charges for the instalment loans it agreed for her in October and December 2014.
- pay interest on these refunds at 8% simple from the dates of payment to the dates of settlement.
- remove any adverse information about these loans from Ms A's credit file.

\*HM Revenue & Customs requires Wage Day to take off tax from this interest. Wage Day must give Ms A a certificate showing how much tax it's taken off if she asks for one.

**my final decision**

I am upholding Ms A's complaint in part and direct Wage Day Advance Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 7 March 2017.

Michelle Boundy  
**ombudsman**

## **COPY OF PROVISIONAL DECISION**

### **complaint**

Ms A has complained about loans granted to her by Wage Day Advance Limited ("Wage Day" or "the lender").

### **background**

Wage Day agreed five "payday" loans for Ms A between December 2013 and July 2014. It then agreed three instalment loans for her the following October and December.

Ms A says that she had existing short-term loans from other lenders when she came to borrow from Wage Day. She says that Wage Day would have known this had it carried out proper affordability checks and so should not have lent to her.

One of our adjudicators has looked into Ms A's complaint already. She recommended that it be upheld in part and that Wage Day refunds the interest and charges that Ms A paid for her fourth and fifth payday loans and all three instalment loans. Wage Day did not agree with this recommendation. So the complaint has come to an ombudsman for a final decision.

### **my provisional findings**

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

Wage Day was required to lend responsibly. It needed to check that Ms A could afford to repay her loans sustainably. There was no set list of checks it needed to do, but the checks should have been proportionate to the circumstances of each loan which might include considerations about the amount borrowed, Ms A's borrowing history and so on.

So in making this decision I have first considered whether Wage Day did everything it should have when assessing Ms A's loan applications. And, following on from this, I have thought about whether or not any assessment failings resulted in Wage Day agreeing to lend to Ms A when it should have known that it would be difficult for her to repay. Having done so, I am upholding Ms A's complaint in part and asking the lender to refund the interest and charges for her instalment loans but not her payday loans.

I appreciate that this will be disappointing for Wage Day and for Ms A also, following on from our earlier correspondence. But I hope the following explanation makes it clear why I have come to this conclusion.

Wage Day says that it did not use data from credit reference agencies to check Ms A's ability to repay its loans. It says it asked Ms A about her income and expenditure and relied on this self-declared information and its bespoke credit scoring logic to decide whether or not to lend to her.

I think that Wage Day was entitled to rely on the information Ms A gave it about her income and expenditure, unless it had cause to be concerned about the validity of this. And, as I noted above, the regulations at the time, and indeed currently, are not prescriptive about what checks a lender should carry out.

Ms A borrowed £100 from Wage Day in December 2013. She repaid this in January 2014 and, after a few months, asked for a second loan of £100 in May 2014. She then asked for a £100 loan within a week of repaying her second, and a fourth loan for £200 the day she repaid her third. Both of these loans were taken out in June. Ms A then borrowed her fifth loan in July. She deferred payment on this twice and repaid it in October.

Wage Day didn't breach any regulations (in place at that time) by agreeing loans in succession for Ms A or by extending these loans. However, the regulations did require Wage Day to carry out proportionate checks to ensure that Ms A was able to repay her loans in a *sustainable* manner i.e. through using her normal means. I think the checks Wage Day says it carried out were proportionate in the case of Ms A's first three loans. However, I think the lender should have done more to check whether Ms A's fourth loan was affordable for her, given her emerging borrowing pattern and the increase in loan principal. It could, for example, have enquired further into Ms A's expenditure or asked to see her bank statements.

Ms A has provided her bank statements and I can see from these that her regular credit commitments up to August were approximately £500 to £700 and her income about £1,400. She doesn't appear to have many other regular outgoings. And so I think had Wage Day enquired further into her financial circumstances it would likely have lent to her. And, from the information I have, I can't say it would have been irresponsible of it to do so.

Ms A then borrowed three more loans that year; two in October and one in December. Wage Day says that these were agreed as instalment loans i.e. to be repaid over a longer period than her previous shorter term loans. It says that when Ms A applied for her sixth loan, having rolled over her fifth payday loan twice, it reconfirmed her income and expenditure and "*a monthly pay loan with smaller monthly repayments [was] granted to ensure affordability for the customer.*" However, this loan was taken out within two weeks of Ms A repaying her previous loan. And, given Ms A's continuing pattern of borrowing, I think Wage Day should have done more here than the checks it says it did to ensure the loan was affordable for her, albeit that the repayment amounts were lower than her agreed repayment on her previous loan.

Ms A's financial circumstances had changed by that point. She was borrowing from other payday lenders and was spending significant amounts each month (from August) on what appears to be gambling. Had Wage Day carried out what I consider would have been proportionate checks in October, I think it would have learnt that Ms A could not afford to sustainably repay any further borrowing. And, as a responsible lender, it would not have agreed this or subsequent loans for her.

I note from Ms A's bank statements that she received a bonus from her employer in September and received a substantial amount she says she won in December. Both lots of funds were absorbed within each month by existing debts (including Ms A's large overdraft) and, it appears, increased gambling expenditure. I don't think these deposits would have reassured Wage Day had it known about them, given Ms A's existing debts, continued borrowing from other lenders and her expenditure pattern.

### **what Wage Day should do to put things right**

In summary, I've concluded that Wage Day should have done more to check that Ms A could sustainably repay its loans from the time she applied for her fourth loan. Had it done so, it would not have agreed to her instalment loans. So I think Wage Day needs to refund all of the interest and charges Ms A paid for these. Specifically, it should:

- refund the interest and charges for the instalment loans it agreed for her in October and December 2014.
- pay interest on these refunds at 8% simple from the dates of payment to the dates of settlement.
- remove any adverse information about these loans from Ms A's credit file.

\*HM Revenue & Customs requires Wage Day to take off tax from this interest. Wage Day must give Ms A a certificate showing how much tax it's taken off if she asks for one.

**my provisional decision**

I am minded to uphold Ms A's complaint in part and require Wage Day Advance Limited to put things right as I've set out above.

I'll wait four weeks to see if either party has anything further to add – before considering my decision on this complaint once more.

Michelle Boundy  
**ombudsman**