

complaint

Mr S complains that Elevate Credit International Limited trading as Sunny.co.uk lent him money that he couldn't afford to repay.

Mr S is represented in his complaint by a claims management company.

background

Mr S took out five instalment loans with Sunny between March and November 2017.

The adjudicator recommended that Mr S's complaint be upheld in part. She thought that Sunny's checks went far enough before agreeing loans one to four. And that based on the information that Mr S gave to Sunny these loans appeared affordable.

By loan five, the adjudicator thought that Sunny should've tried to independently verify the financial information that Mr S had given. With better checks, the adjudicator thought Sunny wouldn't have agreed loan five.

The adjudicator recommended that Sunny refund all interest and charges that Mr S had paid on loan five, together with simple interest at 8% on the refund. She asked it to remove any negative information about loan five from Mr S's credit file.

Sunny hasn't responded to the adjudicator's recommendation so the complaint has come to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Sunny was required to lend responsibly. It needed to make checks to see whether Mr S could afford to pay back each loan. These checks needed to be proportionate to things such as the amount he was borrowing, the length of the agreement and his borrowing history. But there wasn't a set list of checks Sunny had to do.

loans one to four

When Mr S applied for loans one to four, Sunny asked for details of his income and expenses. It also carried out credit checks.

Mr S told Sunny that his monthly income was around £1,350. Mr S declared expenses that ranged between £200 and £450. Sunny also took account of the credit commitments that it could see on Mr S's credit checks.

Given the amount that Mr S was due to repay each month on loans one to four, I think that Sunny's checks were proportionate.

It was reasonable of Sunny to rely on the information to decide that Mr S could afford the monthly repayments on each loan. It follows that I don't uphold this aspect of Mr S's complaint.

loan five

By loan five, Mr S had been borrowing regularly from Sunny. Mr S took on loan five while loan four continued to run. I think these factors should've alerted Sunny to the possibility that Mr S might have become dependent on short term loans.

I consider that it would've been reasonable to expect Sunny to independently verify the information Mr S had given about his finances. Sunny could've done this in a variety of ways. As I have Mr S's bank statements for the relevant time, I've used these to decide what better checks would've shown.

Based on what I've seen, I think if Sunny had carried out a proportionate check before loan five, it would've decided that Mr S couldn't afford to take on further debt. That's because around loan five it would've seen that Mr S was gambling regularly. He had spent more than £1,200 on gambling transactions in the month leading up to taking out loan five. This meant that together with Mr S's regular outgoings, he didn't have enough disposable income to afford the combined repayments on loans four and five.

If Sunny had been aware of Mr S's gambling problems, as a responsible lender, I don't think it would've agreed to lend.

Mr S has lost out so it's fair that Sunny pay him some compensation.

my final decision

My decision is that I uphold this complaint in part.

To put things right, I require Elevate Credit International Limited trading as Sunny.Co.Uk to:

- Refund any interest and charges paid on loan five;
- 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*; and
- Remove any negative information recorded about loan five from Mr S's credit file.

*HM Revenue & Customs requires Sunny to take off tax from this interest. Sunny must give Mr S 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 S to accept or reject my decision before 5 March 2019.

Gemma Bowen
ombudsman