

complaint

Mr J complains that Harvey and Thompson Limited ('H&T') lent irresponsibly to him.

background

On 25 July 2017, Mr J borrowed £500 from H&T. Before it agreed to lend that amount, H&T asked Mr J to provide information about his income and expenditure. It also undertook a credit check.

Mr J declared that he lived with his parents and that his monthly outgoings were £50 per month. Those costs were attributed to travel. The credit check showed that he had 14 active credit accounts – 11 of those accounts had been opened in the preceding six months.

Our adjudicator thought the complaint should be upheld. She thought that H&T should have undertaken more checks when Mr J made his application.

H&T disagreed with that view. It said that based upon Mr J's outgoings, the loan appeared affordable. It also said that affordability information wasn't available to it at the relevant time.

my findings

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 of the relevant rules, guidance and good industry practice - on our website.

H&T needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr J could repay the loans in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate. Having said that, I'd also expect H&T to take full account of the information it obtained as part of the application process.

I think that it is important for me to make clear that H&T was required to establish whether Mr J could sustainably repay the loan – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course, the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the relevant regulations define sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr J's complaint. Having done so, I agree with our adjudicator and I think the complaint should be upheld.

As I said above, early in the lending relationship, it is generally acceptable for a lender to undertake fewer checks. But that lender must also take full account of the information it obtains about a customer before it agrees to a loan.

In this case, H&T enquired as to Mr J's income and expenditure. He declared his monthly outgoings to be £50 per month in respect of travel only. In my view, that figure was unlikely to be accurate and should have given H&T cause to ask further questions. For example, it is very unlikely that even someone living with their parents would not have some bills, such as a mobile 'phone or some housekeeping expenses.

In addition to that, the credit check showed that Mr J had taken out 11 new credit accounts in the six months before he applied to H&T. No account had been taken of any repayments towards that lending when H&T made enquiries about Mr J's income and expenditure. And I think the number of new accounts within that time frame should have probably indicated to H&T that Mr J was having problems managing his finances.

The number of credit accounts Mr J had opened in the preceding six months was inconsistent with his stated expenditure of £50 per month. And so I think H&T should have undertaken more checks. Given the inconsistency, a proportionate check at that stage should have included a full review of Mr J's financial circumstances.

Had those checks been undertaken, I think H&T would have seen that in the month before he applied for this loan, he had taken out around £2,000 of borrowing with other short-term lenders. He had also spent over £1,000 making credit repayments in the earlier month. To put that in context, his income at that time was just over £1,200. I can also see that Mr J had spent considerable sums using online gambling sites.

In summary, if H&T had undertaken a proportionate check and questioned the apparent contradiction in the information it had, it would have been abundantly clear that Mr J could not sustainably repay this loan. So, H&T will need to take action to put things right.

putting things right – what Harvey &Thompson needs to do

- refund all interest and charges Mr J paid on this loan;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement†;
- remove any negative information about the loan from Mr J's credit file.

† HM Revenue & Customs requires Mr J to take off tax from this interest. H&T must give Mr J a certificate showing how much tax it's taken off if he asks for one.

my final decision

For the reasons given above, I'm upholding Mr J's complaint. Harvey & Thompson Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 17 April 2020.

Nicola Bowes
ombudsman