

Complaint

Mr L says Harvey & Thompson Limited (“H&T”) irresponsibly lent to him.

Background

This complaint is about an instalment loan that H&T provided to Mr L in May 2018. Our adjudicator upheld Mr L’s complaint and thought that he shouldn’t have been provided with his loan. H&T didn’t agree with our adjudicator’s assessment. So the complaint was passed to me.

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 unaffordable and irresponsible lending - including all the key 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 L 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.

But certain factors might point to the fact that H&T should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a customer’s income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

I’ve carefully considered all of the arguments, evidence and information provided. Having done so, I think that H&T should reasonably have seen that Mr L was unlikely to have been able to make his payments in a sustainable manner when it provided this loan. I say this because the credit check H&T carried out showed Mr L had opened in excess of 20 new credit accounts in the period leading up to this loan being taken.

In these circumstances, I think H&T ought to have to get a better understanding of Mr L’s actual financial circumstances before lending to him, as there was a realistic possibility that Mr L already had much more debt than he was able to afford.

I think that if H&T had probed into Mr L’s circumstances further, as it would’ve been proportionate to do, it would have seen that Mr L was borrowing from a number of different short-term lenders in a futile attempt to make ends meet and meet his commitments to

existing creditors. And, in my view, this would more likely than not have shown H&T that Mr L was unlikely to be able to repay this loan without borrowing further or experiencing financial difficulty. So overall I'm satisfied that proportionate checks would more likely than not have shown H&T that Mr T was unlikely to be able to sustainably repay this loan.

Mr L had to, or is being expected to, pay interest and charges on a loan that H&T shouldn't have provided him with. So I think that he lost out and H&T should put things right.

Putting things right – what H&T needs to do

- remove all interest and charges applied to Mr L's loan from the outset. The payments Mr L should then be deducted from the £750 originally lent. If the payments made are more than £750 any extra should be treated as an overpayment and refunded;
- pay interest of 8% simple a year on any overpayments, should there be any, from the date they were paid to the date of settlement†;
- any adverse information recorded as a result of this loan should be removed from Mr L's credit file;

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

I'd also remind H&T of its obligation to exercise forbearance should an outstanding balance remain after all adjustments have been made and it be the case that Mr L is experiencing financial difficulty.

My final decision

For the reasons given above, I'm upholding Mr L's complaint. Harvey & Thompson Limited should pay Mr L compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 9 May 2020.

Jeshen Narayanan
ombudsman