

complaint

Mrs R complains that CURO TRANSATLANTIC LIMITED (trading as Wage Day Advance) gave her a loan that was unaffordable.

background

In 2014 Mrs R took out a loan of £100 with Wage Day Advance. It was a payday loan, and was repaid on schedule less than two weeks later in one lump sum.

Mrs R is unhappy that, at that time, she was caught in a debt spiral, needing to borrow further to repay her loans. She also had a gambling problem.

Wage Day Advance is content that it did carry out adequate affordability checks before lending.

Our adjudicator felt that, whilst Wage day Advance did undertake appropriate checks, the results of these should've led it to the conclusion that the loan wasn't affordable. As such he recommended that the complaint be upheld, with some compensation paid to Mrs R.

Wage Day Advance doesn't agree, and so the complaint has been passed to me for a 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. I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loan was offered.

Wage Day Advance was required to lend responsibly. It needed to make checks to see whether Mrs R could afford to pay back the loan before it lent to her. Those checks needed to be proportionate to things such as the amount Mrs R was borrowing and her lending history, but there was no set list of checks that Wage Day Advance had to do.

The loan was regulated by the Financial Conduct Authority ('FCA'), whose regulations for lenders are set out in its consumer credit sourcebook (generally referred to as "CONC"). These regulations - in CONC 5.3.1(2) - require lenders to take "*reasonable steps to assess the customer's ability to meet repayments under a regulated credit agreement in a sustainable manner without the customer incurring financial difficulties or experiencing significant adverse consequences.*" CONC 5.3.1(7) defines 'sustainable' as being able to make repayments without undue difficulty. And it explains that this means borrowers should be able to make their repayments on time and out of their income and savings without having to borrow to meet these repayments.

So, the fact that Mrs R was able to repay her loan in full and on time doesn't necessarily mean it was affordable to her and that she managed to repay it in a *sustainable* manner. In other words I can't assume that Mrs R was able to repay the loan out of her normal means without having to borrow further.

I can see that, before making its decision to lend, Wage Day Advance reviewed Mrs R's financial situation based upon the information she'd provided to it about her monthly income and expenditure. It's records show her monthly income was £1,000 and, against this, she

said she had monthly outgoings of £855 (comprising mortgage/rent £155, other regular costs of £300 and utilities of £400). This left her with apparent monthly disposable income of £145. Wage Day Advance concluded that this level of disposable income was adequate in relation to its required loan repayment of £129.50.

I accept that the affordability assessment carried out by Wage Day Advance indicated that Mrs R had a monthly surplus of disposable income that should, just about, allow her to repay her loan. But I don't think that this was necessarily a reliable indication that she could afford to repay the loan in a sustainable way. If she had any unexpected, or unaccounted, expenses whatsoever - even of negligible value - she would likely have been left with no disposable income at all.

If Wage Day Advance had recognised this at the time then I don't think that, as a responsible lender, it would've agreed to provide this loan to her. It follows that I don't think Wage Day Advance was right to give this loan to Mrs R and so it must pay some compensation to her.

my final decision

For the reasons set out above I uphold this complaint and require CURO TRANSATLANTIC LIMITED (trading as Wage Day Advance) to:

- refund to Mrs R all interest and charges applied to the loan;
- pay interest on this refund at 8% simple per year* from the date of payment to the date of settlement;
- remove any adverse information about this loan from Mrs R's credit file.

*HM Revenue & Customs requires CURO TRANSATLANTIC LIMITED to take off tax from this interest. CURO TRANSATLANTIC LIMITED must give Mrs R a certificate showing how much tax it's taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to Mrs R to accept or reject my decision before 12 January 2019.

Richard France
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