complaint

Mr E complains that Curo Transatlantic Limited trading as Wage Day Advance (WDA) lent him money that he couldn't afford to repay.

background

Mr E took out 16 loans with WDA between October 2012 and June 2014.

Before this service became involved, WDA offered to refund interest and charges on loans 10 to 14 as it thought it should've carried out further checks before agreeing them. WDA also waived some interest and charges to be paid on loan 16 after it realised Mr E hadn't met its lending criteria. This reduced the outstanding balance on loan 16 to just over £330.

WDA offered to apply the refund on loans 10 to 14 to the outstanding balance. Mr E wasn't happy with this offer so he brought his complaint to this service.

The adjudicator recommended that WDA should do more than it had offered. She thought it should've asked about Mr E's living costs and regular expenditure before agreeing loan one. Although WDA recorded an expense figure of £500 the adjudicator didn't know what this figure was made up of so couldn't say the check went far enough.

The adjudicator thought that by loan two, WDA should've also asked Mr E whether he had other short term loans. And that from loan three onwards a proportionate check would've involved verifying all of Mr E's outgoings.

The adjudicator thought it was reasonable to agree loan one but that with better checks, WDA shouldn't have lent loans two to 16, particularly as from loan three onwards with more checks, it would've seen evidence of Mr E's gambling habit.

The adjudicator recommended that WDA refund all interest and charges Mr E had paid on these loans, together with interest on the refund. The adjudicator asked WDA to remove any negative information about the loans from Mr E's credit file. She said it could apply the refund to reduce any outstanding principal balance left to pay on the final loan.

WDA doesn't agree with the adjudicator's recommendation. It says the guidance in place at the time means it wasn't unreasonable not to ask for supporting evidence of expenditure. It says it was reasonable to rely on the information Mr E gave each time. And that it would've expected him to include any payday lending commitments as part of his declared credit commitments.

WDA points out that the information held by the credit reference agencies wasn't always complete at the time as not all short term lenders reported information. And gambling transactions wouldn't have appeared on Mr E's credit file.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm upholding this complaint in part along the lines recommended by the adjudicator.

WDA was required to lend responsibly. It needed to make checks to see whether Mr E could afford to pay back each loan before it lent to him. Those checks needed to be proportionate to things such as the amount Mr E was borrowing, how much he had to repay, the length of the agreements and his borrowing history. But there was no set list of checks WDA had to do.

WDA has given us evidence that it asked Mr E for details of his net monthly income and expenditure before agreeing to lend each time. It recorded a monthly income figure of between £1,150 and £1,185 with monthly outgoings of between £300 and £500. WDA also carried out its own bespoke credit scoring.

loan one

Mr E was borrowing £150 and had to repay just under £200. It was his first loan so I think a proportionate check would've involved asking for details of Mr E's living costs and regular credit commitments.

Although WDA says Mr E told them his monthly outgoings were £500, I can't see what was included in this figure. However, based on what it knew about him and the amount he was borrowing, I think it was reasonable of WDA to agree this loan.

loan two

Although this was only Mr E's second loan, it was double the amount of the first and he took it out within three days of repaying loan one.

I think WDA should've started to become concerned about whether it knew enough of Mr E's financial situation to agree to lend. So it should've asked him whether he had any other short term lending commitments as well as his regular expenses.

I appreciate WDA says it would've expected Mr E to include these commitments as part of his overall expenditure information that he gave but I can see from his statements that this wasn't the case. I also can't see anything on the application screenshot to indicate that WDA asked him specifically about his other short term lending.

If WDA had found out about Mr E's other loans, it's likely it would've realised he had short term lending commitments of almost £700. So with his living expenses and regular financial commitments, Mr E wouldn't have had enough disposable income to make his loan repayment of about £380.

loan three onwards

By loan three, a pattern of borrowing had emerged and Mr E was borrowing more money. He'd also deferred repayment on loan two. Mr E went on to defer the next loan a total of four times and he deferred repayment of loan five. I think WDA should've been concerned that it didn't know enough about Mr E's true finances. It should've been independently checking that he could afford the repayments.

To get the fullest financial picture possible, WDA could've asked to see bank statements, pay slips or copy bills. As Mr E has given us bank statements, I've used these to check all of his outgoings. From what I've seen, I think that if WDA had looked as carefully in to Mr E's financial situation as it should've done, it would've realised that the reason for his repeated borrowing was that he had a serious gambling habit.

Mr E's gambling habit is relevant when looking at whether he could repay the loans in a sustainable way – that is without having to borrow again to do so. Mr E's position didn't improve during the rest of the time he borrowed from WDA. His monthly online gambling transactions varied from around £1,700 to just over £12,000.

I think if WDA had carried out proportionate checks, it would've realised he was unlikely to be in a position to repay loan two onwards in a sustainable way. As a responsible lender, I don't think it would've agreed to lend. Mr E has lost out as a result of taking the loans so WDA should pay him compensation.

I understand there's an outstanding balance on loan 16. As Mr E has had the benefit of the money lent to him it's fair that he repays any outstanding principal balance.

WDA can choose to apply the refund to the outstanding principal balance before paying any remaining balance (if there's one) to Mr E.

putting things right

To put things right, WDA should:

- refund all interest and charges Mr E paid on loans two to 16
- pay interest on these refunds at 8% simple* per year from the dates of payment to the date of settlement;
- write off any unpaid interest and charges on loans two to 16
- if it chooses to, apply the refund to any outstanding principal on loan 16 before paying any remaining balance (if there is any) to Mr E; and
- remove any negative information about loans two to 16 from Mr E's credit file.

*HM Revenue & Customs requires WDA to take off tax from this interest. WDA must give Mr E a certificate showing how much tax it's taken off if he asks for one. If WDA intends to apply the refund to reduce any outstanding balance, it must do so after deducting the tax.

my final decision

My decision is that I uphold this complaint in part. I require Curo Transatlantic Limited trading as Wage Day Advance to put things right by doing as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 8 January 2018.

Gemma Bowen
ombudsman