

complaint

Mr E complains that WAGEME.COM LTD ("WCL"), gave him loans that he couldn't afford to repay.

background

Mr E took 6 loans from WCL between June 2015 and September 2015 as follows:-

Loan number	Date of Loan	Loan repayment (including initial interest amount)	Date repaid
1.	3/6/2015	£109.60	15/6/2015
2.	29/6/2015	£225.60	15/7/2015
3.	27/7/2015	£343.20	14/8/2015
4.	17/8/2015	£254	18/8/2015
5.	29/8/2015	£454.40	15/9/2015
6.	28/9/2015	£400 plus interest (unknown)	Unpaid

Mr E said that he was using other payday loans when he borrowed from WCL. The loans trapped him in a debt spiral and each month he had to continue to borrow in order to live. Mr E said that if WCL had carried out more checks, it would have seen that its loans weren't suitable for him.

WCL said that it had checked Mr E's bank statement at the time of Loan 1 and had spoken to him before other loans to check that his circumstances hadn't changed. It had carried out a credit check but it hasn't provided the results of its credit checks to this service. WCL said that it requests a new bank statement every six months. It also takes into account its records of previous dealings with the borrower. WCL also said that it conducts its assessments based on the borrower's declared budgeted income and expenditure and credit report.

The adjudicator concluded that WCL hadn't made sufficient checks for Loans 5 and 6. If it had done so, it would have found that these loans were unaffordable. She recommended that WCL should:-

- Refund all interest and charges that Mr E paid on Loans 5 and 6;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
- Write off any unpaid interest and charges on Loans 5 and 6 and apply the refund to reduce any capital outstanding and pay any balance to Mr E;
- Remove any negative information about Loans 5 and 6 Mr E's credit file.

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

WCL hasn't provided a response to the adjudicator's view.

Mr E disagreed and responded to say that appropriate checks hadn't been made. He disagreed with the adjudicator's assessment with regard to Loans 1 to 4. He queried what information had been used to assess affordability. He also couldn't remember sending his bank statement to WCL.

The adjudicator said that WCL's internal notes showed a record of it having seen Mr E's bank statement before Loan 1 and that the notes showed Mr E's income and expenditure. She had reviewed Mr E's bank statements and said that the information WCL had recorded matched that on the bank statements.

Mr E responded to say that he would have thought the bank statement and the results of WCL's credit checks would have been kept on his file by WCL.

my findings

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

WCL was required to lend responsibly. It needed to make checks to make sure Mr E could afford to repay the loan before it lent to him. Those checks needed to be proportionate to things such as the amount Mr E was borrowing, the length of the loan agreement and his lending history. But there was no set list of checks WCL had to do.

The Financial Conduct Authority ("FCA") was the regulator at the time Mr E took his loans from WCL. Its regulations for lenders are set out in its consumer credit sourcebook. These regulations 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."* The FCA defines 'sustainable' as being able to make repayments without undue difficulty. It says 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 the amounts borrowed and the interest paid might have been low in comparison with Mr E's income, or that he managed to repay five of the loans in full, doesn't necessarily mean the loans were affordable for him and that he managed to repay them in a sustainable manner. In other words I can't assume that because Mr E managed to repay most of his loans that he was able to do so out of his normal means without having to borrow further.

WCL has told us about the checks it did before lending to Mr E. I note that WCL carried out credit checks but I've not seen these. I have seen Mr E's credit report which shows around six credit accounts in arrear at the time he applied for WCL's loans. But I can't be sure that WCL would have seen these on its credit check. I'm aware that when a lender carries out a credit search, the information it sees doesn't usually provide the same level of detail that a consumer's credit search will and it isn't necessarily up to date. A lender might only see a small portion of a borrower's credit file, or some data might be missing or anonymised. So, that may explain any differences between the information provided by WCL's credit check (if it wasn't aware of the delinquent accounts) and Mr E's actual situation.

I note that it is WCL's practice to request a bank statement before a borrower's first loan and then every six months after. I note from WCL's records that it had seen Mr E's bank statement before Loan 1 and there are details of Mr E's income and regular expenditure for some of the loans. I note that Mr E disputes that he had sent WCL his bank statement. But I can see that it has recorded that Mr E had sent it in to it. I also note that it has accurately recorded Mr E's income as £2,218 although other elements of Mr E's regular expenditure don't appear to exactly match Mr E's most recent bank statement before Loan 1. I also don't

know if the bank statement it saw was Mr E's most recent statement or one before that. But overall and on balance, I accept that WCL had seen Mr E's bank statement.

Before Loan 1, WCL had recorded Mr E's income as £2,218 and his expenditure at £975. The loan repayment was £109.60. Whilst I've not seen the results of WCL's credit check, I do note that WCL had rejected two loan applications from Mr E less than three months earlier. I might have expected this to cause WCL some concerns. On the other hand, I can see that the loan repayment amount was relatively modest compared to Mr E's declared disposable income. So, overall I think it was proportionate for WCL to consider Mr E's declared disposable income at that time, without making further checks for Loan 1. So, I don't think WCL did anything wrong in giving Loan 1 to Mr E.

Mr E took out Loan 2 two weeks after repaying Loan 1. The loan repayment amount had increased to £225.60. It appears that Mr E's declared income was £2,300 and his declared expenditure was still £975, and there had been no repayment issues up to then. I think the repayment amount was still relatively modest compared to Mr E's declared income. So, again I think that WCL's checks were sufficient before Loan 2.

Mr E took out Loan 3 twelve days after repaying Loan 2. The repayment amount for Loan 3 had increased to £343.20. WCL's records again show that Mr E had declared a disposable income of £1,125. I think the repayment amount was still relatively modest compared to Mr E's income. So, I still think it was proportionate for WCL to consider Mr E's disposable income again here, without making further checks for Loan 3. So, I don't think WCL did anything wrong in giving Loan 3 to Mr E.

Loan 4 for £250 was taken out just three days after Mr E repaid Loan 3. It's not clear what the repayment amount would have been if the loan had been repaid on the due date, as Mr E repaid the loan the day after taking it out, paying £254. But I think it's likely that the repayment amount was close to £300. WCL's records again show that Mr E had declared a disposable income of £1,125. As Loan 4 was Mr E's fourth loan from WCL in less than three months and as it was taken out so soon after Loan 3 was repaid, I think WCL might have been concerned by this time that Mr E was experiencing financial difficulties. And I think WCL should have also been concerned about the frequency of Mr E's loan requests especially in view of his relatively high disposable income. I think they might have suggested to ECL that Mr E was using short term loans as a supplement to his normal income, rather than using them to meet a temporary one-off problem. So by the time of Loan 4 I think it would have been proportionate for WCL to have asked Mr E whether he was taking short term loans from other lenders at the same time. I can't see that it did this.

With regard to Loans 5 and 6, these were taken out around 12 days and six weeks respectively after Loan 4. And the loan repayment amounts had increased significantly to £454.40 for Loan 5 and a likely similar amount for Loan 6 as the loan amount was for the same sum. I can't see on WCL's notes a record of the repayment amount for Loan 6. I think Mr E's loans were by this time being taken sufficiently regularly to show that Mr E was reliant on them. By this time, I also think it should have been clear to WCL that it could no longer rely on the information Mr E had provided. I think the amount and regularity of Mr E's loan applications might have suggested to WCL by the time of Loans 5 and 6 that it should look in much more depth at Mr E's true financial situation to assess the affordability of its lending. It could've done this in a number of ways. It could've asked for evidence of Mr E's income and expenditure such as payslips and bills, or it could've looked at things like his bank statements.

Although I don't think the checks WCL did for Loans 4 to 6 were sufficient, that in itself doesn't mean that Mr E's complaint about this loan should succeed. I also need to see whether what I consider to be proportionate checks would have shown WCL that Mr E couldn't sustainably afford Loans 4 to 6.

With regard to Loan 4, as I've said above, I would have expected WCL to ask about Mr E's short term credit commitments whilst taking into account Mr E's declared disposable income of £1,125. I've reviewed his bank statements for the month before Loan 4 to see what better checks would have shown WCL. But I can't see that Mr E had taken out other short term loans in that period. So, I don't think that carrying out better checks would've uncovered anything that would've stopped WCL from giving the loan to Mr E. So, I'm not intending to uphold Mr E's complaint about Loan 4.

With regard to Loans 5 and 6, as I've said above, I think WCL should have been independently checking the information Mr E had provided. So I've tried to do this by looking at Mr E's bank statements at the time of these loans, to see what better checks would have shown WCL. The bank statements may not have shown WCL everything it would've seen by carrying out proportionate checks. But the bank statements are the best indication of Mr E's ability to afford the loans at the time they were approved. So I don't think it's unreasonable to rely on these.

If WCL had checked Mr E's financial information before Loan 5, it would have seen that he was earning less than he'd declared, around £1,744. But, it also would have become aware that Mr E appeared to be gambling heavily with gambling expenditure of around £1,000. And his regular expenditure was over £1,500. Mr E had also taken out a short term loan for £700 which appeared to be repayable by monthly payments of £128. There appear to be contributions of around £633 from Mr E's partner. But overall, if WCL had carried out what I consider to be proportionate checks before Loan 5, I think it's likely that it would have concluded that Loan 5 wasn't sustainable.

And if WCL had checked Mr E's financial information before Loan 6, it would have seen that he was earning less than he'd declared, around £1,729. But, it also would have become aware that Mr E was gambling less heavily with gambling expenditure of around £305. And his regular expenditure was around £1,308 and his short term lending to be repaid around the same time as Loan 6 was around £128. There also appear to be contributions of around £400 from Mr E's partner. But overall, if WCL had carried out what I consider to be proportionate checks before Loan 6, I think it's likely that it would have concluded that Loan 6 wasn't sustainable.

So, I think if WCL had done what I consider to be proportionate checks, it would have seen the problems with Mr E's financial situation. And so, as a responsible lender, I don't think it would have agreed to lend Loans 5 and 6 to him. So, I think that WCL needs to pay Mr E some compensation relating to Loans 5 and 6.

To settle the complaint I think WCL should:-

1. Refund all interest and charges that Mr E paid on Loan 5;
2. Pay interest of 8% simple* a year on all refunds from the date of payment to the date of settlement;
3. With regard to Loan 6, refund all the interest and charges that Mr E has paid on Loan 6, and pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;

4. Write off any unpaid interest and charges from Loan 6;
5. Apply the refunds referred to above to reduce any capital outstanding on Loan 6 and pay any balance to Mr E; and
6. Remove any adverse information about Loans 5 and 6 from Mr E's credit file.

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

my final decision

My decision is that I uphold this complaint in part. In full and final settlement of this complaint, I order WAGEME.COM LTD to:

1. Refund all interest and charges that Mr E paid on Loan 5;
2. Pay interest of 8% simple* a year on all refunds from the date of payment to the date of settlement;
3. With regard to Loan 6, refund all the interest and charges that Mr E has paid on Loan 6, and pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;
4. Write off any unpaid interest and charges from Loan 6;
5. Apply the refunds referred to above to reduce any capital outstanding on Loan 6 and pay any balance to Mr E; and
6. Remove any adverse information about Loans 5 and 6 from Mr E's credit file.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 5 March 2019.

Roslyn Rawson
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