

complaint

Mr J complains that Active Securities Limited trading as 24/7 Moneybox wrongly lent him money he couldn't afford to pay back.

background

Mr J took out a number of short term loans with Moneybox but he has explained that his complaint only relates to the 26 loans taken out between May 2014 and August 2016. He said that the business didn't carry out proper affordability checks and allowed him to continue borrowing when he was in financial difficulty. He says that this has led to more debt and he has had to take out more and more loans. The level of borrowing was unsustainable and he wasn't able to pay back the last loan and a large proportion of it is outstanding.

Moneybox explained in detail about the checks it carried out and said it recorded a credit score for Mr J and the loans were affordable on its criteria. It said it was entitled to rely on what Mr J said about his income and outgoings.

Our adjudicator recommended that the complaint should be upheld in part. She thought that Moneybox should have carried out more checks about why Mr J needed to keep borrowing so often. She thought that by the time of the third loan Moneybox should have done more checking before lending the money and if it had done those checks it would've seen that he couldn't afford to pay back what he was borrowing. More detailed checking would've revealed that Mr J was borrowing from other lenders and was also gambling heavily. Moneybox didn't respond to the adjudicator's view and so the complaint has been passed to me to decide.

my findings

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

Before agreeing to lend to Mr J, Moneybox had to check each time that he could afford to repay the loan. There is no set list of checks that Moneybox had to carry out. But the checks had to be proportionate to things like – but not limited to – the size of the loan, the repayments and what Moneybox knew about Mr J.

Moneybox says it asked Mr J about his income and outgoings and did a credit check before agreeing to lend to him. It's recorded his income as £3,700 and his outgoings as £1520. It has provided me with a copy of the credit checks but they are not in a format that I can readily ascertain what Moneybox would've seen on Mr J's credit file.

Looking at the checks I agree with the adjudicator that they didn't go far enough. Mr J had defaulted on a previous loan with Moneybox and so there was concern within Mr J's borrowing history about his ability to manage his credit commitments. However, I agree with the adjudicator that if further checks had been done into Mr J's circumstances they would've revealed that Mr J was at that time in a position to afford the loan repayments. Mr J repaid these loans in full and on time and I agree with the adjudicator that it was reasonable to lend the first two.

Mr J asked for his third loan for £680 on 28 June 2014 which was the same day that the second loan was repaid. This was the third successive loan Mr J had applied for and the

amounts had increased each time. The repayment amount of £954.80 was a significant proportion of Mr J's disposable income. Asking for the loans so quickly and at the same time as the previous loans needed to be paid was an indication that Mr J might be reliant on short term credit. I think that Moneybox should have taken a closer look at Mr J's circumstances before agreeing to lend him this money.

Looking at the affordability checks that were carried out by Moneybox I can't see that they went far enough. Moneybox didn't ask Mr J about any other normal monthly outgoings or whether he had any other short term lending accounts. I can't see that Mr J was asked why he needed these further loans so soon or why he couldn't pay back the money he'd borrowed before taking out more loans. Especially considering Mr J's high level of disposable income

Had Moneybox asked these questions or taken a closer look at Mr J's finances it would've seen that Mr J had other credit commitments and was gambling heavily and reliant on payday lending. Without asking Mr J in more detail about his circumstances I can't say that Moneybox did enough to assess whether the loan Mr J was taking out was affordable for him.

Although Mr J took out the loans and said he could afford them I don't think that this is enough for me to say Moneybox acted responsibly. Mr J wanted and needed the loans because of the debt he was in. Moneybox ought to have known this was the case at the time of the application for the third loan given that he effectively hadn't repaid the earlier two loans without borrowing again.

Even though on the face of it Mr J appeared to be meeting his repayments to Moneybox during the time he was borrowing from it, I don't think this is enough to say that the loans were affordable. Mr J was meeting his repayments by borrowing more money from other lenders and borrowing again from Moneybox. The amount of loans taken out by Mr J were clearly unaffordable and unsustainable given his other short term lending and outgoings. Just relying on what Mr J said about his income and outgoings without carrying out more robust checking was irresponsible.

I have looked at Mr J's bank statements for this period and it is clear that he was spending more on repaying credit, gambling and his living expenses than he was earning. He was relying on credit and eventually was unable to repay what he had borrowed from Moneybox.

Mr J has had the benefit of the money so I think it is only fair that he pays it back but I agree with the adjudicator that all interest and/or charges applied to loans three to twenty six should be refunded and all information recorded on Mr J's credit file about these loans should be removed.

I understand that there is a balance outstanding on the last loan and Moneybox can deduct the capital outstanding from the refund.

my final decision

My final decision is that I uphold this complaint. In full and final settlement of it Active Securities Limited should do the following:

- refund any interest and/or charges applied to loans three to twenty six together with 8% simple interest per year from the time that the interest and charges were paid to the time Mr J gets it back.
- write off any interest and charges that Mr J hasn't paid;
- deduct any capital still owing/written off from the compensation due;
- remove any adverse information recorded about the refunded loans from Mr J's credit file.

*HM Revenue & Customs requires Active Securities Limited to take off tax from this interest. Active Securities Limited must give Mr J a certificate showing how much tax it's taken off if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 17 August 2017.

Emma Boothroyd
ombudsman