

complaint

Mr P complains that Elevate Credit International Limited (trading as Sunny) gave him loans that he couldn't afford.

background

Mr P took out a total of seven loans with Sunny in 2016.

Loan	Date	Amount	Monthly repayment	Date repaid in full
1	22.03.16	£2,500	£346.12	15.04.16
2	24.06.16	£2,500	£343.08	-
3	09.08.16	£100	£13.39	07.10.16
4	02.09.16	£100	£13.04	21.10.16
5	07.10.16	£200	£26.27	-
6	21.10.16	£200	£27.70	-
7	17.11.16	£200	£27.90	-

Mr P says, in summary, that he was caught in a spiral of debt. He says that even though he was earning a good salary, he was borrowing from several different short-term lenders at once. He believes that if Sunny had paid more attention to his credit reports, it would have noticed that he was constantly borrowing from short-term lenders. So he believes it should have refused to lend to him.

Our adjudicator recommended that the complaint should be upheld in part. In brief, he thought that Sunny had carried out proportionate checks before making the first two loans. And he thought it would have looked to Sunny as if those loans were affordable to Mr P. But he said it should have carried out more detailed checks before making loan 3. And from loan 4 onwards it should have carried out a full review of Mr P's financial circumstances. If it had done so, he thought that it would have realised that Mr P couldn't afford loans 3-7.

So the adjudicator recommended that Sunny refund all interest and charges that Mr P paid on those loans, with interest on the refund. And he said it should remove any negative information about loans 3-7 from Mr P's credit file.

Sunny didn't comment on the adjudicator's view. Mr P accepted it for the most part. But he thought his complaint should be upheld for loan 2, as well as for loans 3-7. So the complaint has been 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.

Sunny was required to lend responsibly. It needed to make checks to see whether Mr P 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 P was borrowing, the length of the agreements and his borrowing history. But there was no set list of checks Sunny had to do.

Before making loan 1, Sunny asked Mr P for details of his monthly income and expenditure. And it carried out a credit check. Mr P told Sunny his monthly take-home pay was around £4,770. And he said his monthly costs, including credit commitments amounted to £2625.

I've seen the results of the credit check which Sunny carried out. It's true that it showed that Mr P had taken several short-term loans over the previous few months. But it only showed one outstanding short-term loan at the time. Taking everything into account, on the basis of the information it had, I think it would reasonably have appeared to Sunny that Mr P would be able to afford the monthly repayments on the first loan relatively comfortably.

As it was, although loan 1 was repayable by 14 monthly instalments, Mr P repaid it in full less than a month after he took it out. It was then more than two months before he applied to borrow the same amount again.

Again, when he applied for loan 2, Mr P told Sunny that he earned just over £4,700 per month. His declared monthly outgoings had decreased to £2,175. I've seen the results of the credit check which Sunny carried out. As Mr P has pointed out, he had other credit commitments at the time. He told Sunny that his monthly credit commitments (excluding mortgage) were £450. Sunny's credit check suggested that they were more than this, at around £1,200. But even taking that into account, alongside the information Mr P gave Sunny about his living costs, it would have looked to Sunny as if Mr P would have more than £1,400 per month left over.

I'm satisfied that the checks that Sunny carried out were proportionate in the circumstances. I acknowledge that Mr P says he was making significant monthly payments to support his family overseas. But I wouldn't have expected Sunny to be aware of this, or of Mr P's gambling, based on those checks. And I don't think there was anything which ought to have led it to think that it couldn't rely on the information it had. On the basis of that information, I think loan 2 would have appeared to be affordable to Mr P.

Loan 2 was repayable by 14 monthly instalments, starting in July 2016. So it was on-going when Mr P applied for loan 3. It's true that loan 3 only increased Mr P's total monthly repayments to Sunny by £13.39. But this was the third time Mr P had applied to borrow from Sunny in less than five months. And I think the fact that he was asking for further borrowing when he already had a loan outstanding ought to have prompted Sunny to look more carefully into Mr P's financial circumstances before going ahead.

I accept that Sunny asked about Mr P's credit commitments. But I think it ought to have asked him specifically about any other short-term loans he had. I can see that Mr P had taken out several other substantial short-term loans in the couple of weeks before he applied for loan 3. And once the repayments on those were taken into account, he wouldn't have any disposable income. So I think that if Sunny had asked Mr P about other short-term loans, it would have realised that he wasn't in a position to take on more borrowing.

My view is the same regarding loan 4. Loans 2 and 3 were both open when Mr P applied for loan 4. And given that Mr P was applying to top his borrowing up again in a relatively short space of time, I think that Sunny ought to have carried out a thorough review of Mr P's financial circumstances at this stage. For example, I think it would have been reasonable to ask to see Mr P's bank statements.

Had Sunny looked into Mr P's financial circumstances in as much detail as I think it should have done, it would have realised that he had outstanding loans with other short-term lenders which together left him with no disposable income. What's more, he was, as he says, gambling frequently.

Mr P's financial position didn't improve materially over the next couple of months. So I think that if Sunny had carried out proportionate checks, it would have been clear that he couldn't afford the three further loans it made in October and November 2016. And I don't think it should have made those loans.

putting things right

To put things right, Elevate Credit International Limited (trading as Sunny) should:

- refund all interest and charges that Mr P paid on loans three to seven;
- pay interest on those refunds at 8% simple* per year from the dates of payment to the date of settlement;
- write off any interest and charges on loans three to seven that haven't yet been paid;
- apply the refund to reduce the capital outstanding, and repay any balance to Mr P; and
- remove any negative information about the loans referred to in the first bullet point above from Mr P's credit file.

† HM Revenue & Customs requires Sunny to take off tax from this interest. Sunny must give Mr P a certificate showing how much tax it's taken off if he asks for one.

my final decision

My decision is that I uphold this complaint in part. I require Elevate Credit International Limited (trading as Sunny) 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 P to accept or reject my decision before 19 February 2018.

Juliet Collins
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