

complaint

Mr H complains that WFDC UK Limited trading as Wonga ("Wonga") gave him unaffordable payday loans. He wants some of the interest and fees refunded, together with interest.

background

Mr H took out 20 payday loans with Wonga over a twenty-five month period between 2011 and 2013. He topped up twice and borrowed between £100 and £1,092. Mr H said the loans were unaffordable and he was borrowing money to survive financially. Mr H said he ended up entering a debt management plan ("DMP") after borrowing about £5500 each month from payday lenders. He earned £1800 net each month.

Mr H complained to Wonga. It made him an offer of compensation, but he didn't accept it. Mr H said any gaps in lending from Wonga were because he was borrowing from other payday lenders.

Mr H complained to us. The adjudicator's view was that Mr H was showing signs of being dependent on payday lending in 2011 but as there was a gap of seven months, he didn't think Mr H was dependent. But in 2012, the amounts borrowed increased and the gaps between lending became shorter. In April 2012, Mr H borrowed £450 on the same day he repaid the previous loan. The adjudicator pointed out Wonga didn't consider Mr H's spending, only his net income, when lending to him. He thought if further checks had been carried out in April 2012, it would've realised Mr H was in a cycle of debt and the loans weren't affordable. The adjudicator said all interest and fees paid from 30 April 2012 should be refunded with interest, and the loans removed from Mr H's credit records.

Wonga didn't respond.

my findings

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

When lending money to a consumer, lenders are required to ensure the consumer can repay the borrowing in a sustainable manner without it adversely impacting on their financial situation. A lender should obtain sufficient information to make an informed decision about the lending. Exactly what the lender should consider is for each lender to decide and the guidance and rules lists a number of things each lender may wish to consider. Any checks should be proportionate, based on the size of the borrowing.

Wonga hasn't shown me what checks it carried out when deciding to lend to Mr H, other than asking about his net monthly income. I can't say it carried out proportionate checks in all the circumstances, particularly given the amounts borrowed.

I then considered whether the loans were affordable. I agree with the adjudicator that there is a difference between the loans taken out before 30 April 2012 and after. Before 30 April 2012, while Mr H was clearly taking out loans from more than one payday lender, he was able to repay the loans using his monthly salary and have money for his living expenses. During the seven month gap in 2011 when he wasn't borrowing from Wonga, I can see Mr H was borrowing from other lenders and spending some money gambling, but his finances were manageable.

But from April 2012, the picture changed. Mr H was borrowing increasing sums from payday lenders, including Wonga, and effectively he was borrowing to repay other loans. Most, if not all, of his salary was being used to repay loans, which would've been obvious to Wonga if it had carried out proportionate checks, or considered how Mr H would repay some of its largest loans to him. Mr H's financial position was getting significantly worse due to his use of payday loans, and direct debits were being returned regularly. Mr H had an unauthorised overdraft each month. Mr H was borrowing larger amounts each month from Wonga and other lenders and was clearly dependent on payday lending.

I agree with the adjudicator that the loans taken out on 30 April 2012 onwards were unaffordable, and all the interest and fees paid on those loans should be repaid with interest, and any negative information about those loans removed from Mr H's credit records.

my final decision

My final decision is that I uphold the complaint and WDFC UK Limited (trading as Wonga) should take the following actions:

- refund all interest and fees paid by Mr H for the loans taken out from 30 April 2012;
- pay 8% simple interest on the above sum from the date of payment until the date of refund;
- remove all negative information about the loans taken out from 30 April 2012 from Mr H's credit records;
- If WDFC UK Limited (trading as Wonga) considers it should deduct income tax from the interest element of my award it may do so but should give Mr H the necessary certificate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 28 October 2016.

Claire Sharp
ombudsman