

complaint

Mr P complains about five short term loans that he took out with Curo Transatlantic Limited, trading as WageDay Advance, ("WDA"). He said that WDA shouldn't have given him the loans as they were unaffordable. The complaint is brought to this service by a claims management company. But for ease, I shall refer below to all actions being taken by Mr P.

background

Mr P took out three payday loans and two instalment loans with WDA as follows:

Loan number and date of loan	Loan amount	Amount to be repaid including interest (if paid by due date)	Date repaid
1. 4/7/2015	£150	£182.40	31/7/2015
2. 18/10/2015	£80	£107.52	1/12/2015
3. 3/7/2016	£150	4 instalments of £54.31	19/10/2016
4. 28/10/2016	£170	£235.28	16/12/2016
5. 28/1/2017	£300	3 instalments of £113.58 and one instalment of £113.57	14/4/2017

Mr P said that the granting of unaffordable payday loans prevented him from meeting his essential living expenses. Suitable affordability checks were not carried out by WDA. Mr P was taking loans from ten other payday loan providers and was reliant on short term lending.

WDA said that it asked for Mr P's income and expenditure and made credit reference agency checks.

The adjudicator said that WDA's checks went far enough. She said that for Loans 1 and 2, the checks showed that the highest repayment was well within Mr P's stated disposable income. The adjudicator noted that Loan 3 was taken out more than seven months later and the highest repayment was a small proportion of Mr P's declared income. She also said that Mr P's stated disposable income was sufficient to meet the loan repayments on Loans 3 and 4. So she didn't recommend that the complaint should be upheld.

Mr P disagreed. He said that he wanted the complaint to be reassessed as there appeared to be no evidence that his monthly expenses were ever queried. For example, monthly living costs of £50 wouldn't cover food costs let alone utility bills. He said that if WDA had checked his bank statements, it would have seen that he was gambling and using other payday lenders.

my findings

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

WDA was required to lend responsibly. It should have made checks to make sure

Mr P could afford to repay each of the loans before it lent to him. Those checks needed to be proportionate to things such as the amount Mr P was borrowing, and his lending history. But there was no set list of checks WDA had to do.

The Financial Conduct Authority was the regulator at the time Mr P borrowed from WDA. Its 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 regulations define ‘sustainable’ as being able to make repayments without undue difficulty, and that 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.

WDA has shown us the checks it did before lending to Mr P. It asked him each time about his normal income and his total monthly expenditure. The application forms WDA has provided to us break the expenditure down into rent, monthly other credit, and monthly living costs. An amount for utilities costs is also shown for Loans 1 and 2, although the loan applications for these loans didn’t ask about other credit.

WDA has also provided us with a summary of its credit checks for Loans 1, 4 and 5. It doesn’t appear that we’ve received a summary of the credit checks for Loans 2 and 3.

Loan 1

The repayment amount for Loan 1 was for £182.40. Mr P told WDA that his monthly income was £1,400 and his regular expenditure was £400. So he had a disposable income of £1,000.

WDA has summarised its credit check which showed that Mr P had total debts of £4,512 and no defaults or county court judgements. He had two active short term loans. He also had five accounts up to date in the previous three months. WDA said that the repayment amount was 15% of Mr P’s disposable income and it was happy to lend to Mr P. Overall, I can see that it’s unlikely that WDA would have had additional concerns over its credit check.

I can see that the loan repayment amount was relatively modest compared to Mr P’s disposable income. And there was little to suggest to WDA at that stage that Mr P wasn’t using the loan in the way it was intended – as a short term solution to a temporary cash flow problem.

So, I think it was proportionate for WDA to consider Mr P’s disposable income at that time, without making further checks for Loan 1. So, I don’t think WDA did anything wrong in giving Loan 1 to Mr P.

Loan 2

Loan 2 was for the reduced amount of £80 and was taken out more than three months after Loan 1. Mr P’s declared disposable income was still £1,000. I think the repayment amount of £107.52 was still relatively modest compared to Mr P’s disposable income. So, I still think it was proportionate for WDA to consider Mr P’s disposable income again here, without making further checks for Loan 2. So, I don’t think WDA did anything wrong in giving Loan 2 to Mr P.

Loan 3

Mr P took out Loan 3 more than seven months after he repaid Loan 2. I think it reasonable for WDA to have seen this gap as an indication that Mr P's finances had moved on from whatever situation had required his previous loans. Loan 3 was for £150 repayable by four monthly repayments of £54.31. Mr P told WDA that his monthly income was £1,750 and his regular expenditure was £475. So he had a disposable income of £1,275. I think that the information WDA gathered before Loan 3 suggested that the loan repayments were affordable, and I think it was reasonable for WDA to rely on the information it had before this loan. So, I'm not upholding Mr P's complaint about Loan 3.

Loan 4

Mr P obtained Loan 4 nine days after WDA received payment for Loan 3. But the loan amount had increased to £170 and the repayment amount had increased to £235.28. Whilst I think the frequency and increased amount of the lending might have given WDA some concerns, I note that Mr P's stated disposable income was still £1,275 and the repayment amount was still relatively modest compared to his disposable income.

I also note that WDA's credit check showed that he had nine accounts up to date in the previous three months and one active short term loan. WDA said that there was nothing on the check which raised significant concerns. I've not seen anything in WDA's summary of that check which I think should have caused WDA additional concerns about Mr P's financial situation. So, I still think it was proportionate here for WDA to consider Mr P's disposable income again, without making further checks for Loan 4. So, I don't think WDA did anything wrong in giving Loan 4 to Mr P.

Loan 5

Mr P obtained Loan 5 around six weeks after repaying Loan 4. The loan amount had increased to £300 but was repayable by four monthly instalments of around £113.58. Whilst I think the frequency of the lending might have given WDA some concerns, and I note that Mr P's stated disposable income had decreased to £800, I think the repayment amounts were still relatively modest compared to his disposable income.

I also note that WDA's credit check showed that he had seven accounts up to date in the previous three months and one active short term loan. The last short term loan was taken out two months prior to the application. Again I've not seen anything in WDA's summary of that check which I think should have caused WDA additional concerns about Mr P's financial situation. So, I still think it was proportionate here for WDA to consider Mr P's disposable income again, without making further checks for Loan 5. So, I don't think WDA did anything wrong in giving Loan 5 to Mr P.

I note that Mr P has commented about whether WDA had ever queried the amount of his living costs. He said that his declared amount of £50 for living costs wouldn't have been sufficient for food and utilities. But at the time of the loans, I think it was reasonable for WDA to accept Mr P's expenses information at face value. And I can see that it wouldn't have been unusual for Mr P to have lived in a household where these costs might have been met by the other residents.

Mr P has also referred to his bank statements being checked. But I think it would have been disproportionate for WDA to have asked for Mr P's bank statements or independent verification of Mr P's expenses for any of his loans.

I also note Mr P refers to his gambling. But that wasn't something Mr P had disclosed to WDA or something that WDA would have discovered from what I consider to be proportionate checks.

I realise this outcome will disappoint Mr P. But I hope he can understand my reasons for making this decision.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 14 March 2019.

Roslyn Rawson
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