

complaint

Mr T complains that Curo Transatlantic Limited (trading as WageDay Advance) gave him loans that he couldn't afford.

background

Mr T took out a total of 29 loans with Wage Day between September 2012 and October 2016. The amounts he borrowed ranged from £175 to £870.

Mr T believes Wage Day shouldn't have allowed him to take so many loans. He says he was trapped in a debt cycle, and he says this would have been clear from his pattern of borrowing. He believes that if Wage Day had had sufficient controls in place, it would have realised that it shouldn't continue to lend to him.

Our adjudicator recommended that the complaint should be upheld in part. Briefly, he thought that Wage Day had carried out enough checks before making the first three loans. But he thought that if it had carried out proportionate checks before making the remaining loans, it would have seen that Mr T couldn't afford them. So the adjudicator recommended that Wage Day refund all interest and charges Mr T paid on loans 4 to 29, with interest on the refund. And he said it should remove any negative information about those loans from Mr T's credit file.

Wage Day accepted the adjudicator's recommendations for the large part. And after he sent it his view, it offered to do as he had recommended, but only in relation to loans 5 to 27 inclusive. Mr T wasn't happy with Wage Day's offer, so the complaint's 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.

The redress that the adjudicator recommended in relation to loans 5 to 27 is in line with what I'd have recommended if I considered that a loan had been mis-sold. So I'll confine my comments to the loans on which Wage Day hasn't offered redress following the adjudicator's view. That is loans 4, 28 and 29.

Loan	Date	Amount	Amount repaid inc. interest
4	7 July 2014	£610	£809.38
28	30 Sept 2016	£705	£846
29	27 Oct 2016	£870	£1,394.15

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

In response to the adjudicator's view, Wage Day's pointed out that it considered the loans to be affordable, based on the information Mr T provided about his income and expenditure. It acknowledges that Mr T was steadily increasing the amounts he applied to borrow. But it says there was nothing else to suggest that he was experiencing difficulties meeting his interest payments. It also points out that it carried out a credit check before making loan 28, and the check didn't show high usage of short-term loans by Mr T.

The Financial Conduct Authority was the regulator at the time Mr T borrowed from Wage Day. Its regulations for lenders are set out in its consumer credit sourcebook (usually referred to as "CONC"). 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.*" They define 'sustainable' as being able to make repayments without undue difficulty. And they explain 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 those repayments.

So, the fact that the amounts borrowed and the interest paid might have been low in comparison with Mr T's income, or that he'd been managing to repay the loans in full and before time, doesn't necessarily mean the loans were affordable for him, or that he managed to repay them in a *sustainable manner*. In other words I can't assume that because Mr T managed to repay his loans that he was able to do so out of his normal means without having to borrow further.

When Mr T applied for loan 4, he told Wage Day his monthly income was £3,250 and his regular monthly outgoings were £1,200. It's true that this would have left more than £2,000 for Mr T to use to repay the loan. But this was his third loan from Wage Day in less than four months. And the size of the loans had increased each time. So I think Wage Day should have looked at Mr T's financial situation in more detail before agreeing to lend further.

As a minimum, I think Wage Day should have asked Mr T specifically about any other short-term loans he had outstanding at the time. I can see from his bank statements that Mr T had at least £1,500 of short-term debt already outstanding when he applied for loan 4. The repayment due on that borrowing, combined with the regular monthly expenditure he'd told Wage Day about would have exceeded his declared monthly income.

So I think it likely that if Wage Day had asked Mr T specifically about any other short term loans he already had outstanding when he applied for loan 4, it would have realised that he couldn't afford to take on more borrowing. And so I don't think it should have agreed to make loan 4.

When Mr T applied for loan 28, he told Wage Day his monthly income was £3,500, and his expenses were £1,500. I accept that based on that information, it would have appeared that he could afford to repay the loan relatively easily. But loan 28 was Mr T's seventh loan from Wage Day in just over eight months. And I think Wage Day should have been concerned about whether it could rely on the information Mr T was providing about his finances. So I think it should, again, have asked Mr T specifically about any other short-term loans he already had. And I think it should have taken steps to independently verify the information Mr T gave it about his financial situation.

I've looked at Mr T's bank statements, and what he's told us about his financial situation at the time, to see what better checks would have shown Wage Day. It's clear from Mr T's bank statements that he was taking frequent and substantial loans from a range of other short-term lenders. In the month before he applied for loan 28 alone, he'd borrowed more than £2,000 in short-term loans from other lenders. And I can see that he was repeatedly borrowing from one lender to repay borrowing from another.

I acknowledge that Mr T's reliance on short-term loans might not have been apparent from the credit check that Wage Day carried out. But it can take some time for loans to appear on a credit check, and I don't think that it was enough for Wage Day simply to rely on its credit check to establish what level other short-term loans Mr T might have.

What's more, I think that Wage Day would have seen that although Mr T's monthly income was often higher than the figure he'd given, he had a serious gambling problem. In September 2016, he'd spent more than his entire earnings on gambling. His accounts were significantly overdrawn and he'd had to take emergency loans from his bank.

So I think that if Wage Day had carried out what I consider to be proportionate checks, it would have realised that there was a strong likelihood that Mr T would be unable to repay the loan sustainably. And his position hadn't improved when he applied for loan 29. It follows that I don't think Wage Day should have made loan 28 or 29.

putting things right

To put things right, in addition to doing as it's offered to do in relation to loans 5 to 27 inclusive, Wage Day should:

- refund all interest and charges Mr T paid on loans 4, 28 and 29;
- pay interest on these refunds at 8% simple* per year from the dates of payment to the date of settlement; and
- remove any negative information about loans 5 to 29 inclusive from Mr T's credit file.

*HM Revenue & Customs requires Wage Day to take off tax from this interest. Wage Day must give Mr T 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 Curo Transatlantic Limited (trading as WageDay Advance) 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 T to accept or reject my decision before 21 May 2018.

Juliet Collins
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