

## complaint

Mr M complains that WDFC UK Limited (trading as Wonga) gave him loans that he couldn't afford to repay. He asks that it refunds interest and charges, pays compensation, writes off the remaining balance and removes information about the loans from his credit file.

## background

Mr M took out 24 loans and 10 top up loans between April 2013 and December 2016. He says the loans weren't affordable and he was borrowing to repay existing debts.

The adjudicator didn't recommend that the complaint should be upheld. She said while Wonga should have made further checks before offering some of the loans, it was likely it would have assessed them as affordable. Mr M's living expenses were paid from a joint account. His wife's income was also paid into the account and the adjudicator said responsibility for expenses should be split between them. This left Mr M with enough disposable income to repay the loans.

Mr M didn't agree. He said he was often late with payments for his mortgage and secured loan and his credit report would have shown defaults and other negative information. He asked whether his secured loan, car finance loan and short term loans had been taken into account. Mr M said this outcome wasn't consistent with his complaints about other short term lenders.

## *my provisional decision*

I didn't agree with the adjudicator's recommendations. I sent a provisional decision to the parties to explain why and to give them an opportunity to comment and provide further evidence. In my provisional decision, I set out the following provisional findings:

### *Loans 1 to 4*

*Mr M took out the first loan, of £300, in April 2013. He told Wonga his monthly income was £1,600. Wonga did a credit check which showed Mr M had five accounts in default with an unpaid balance of about £14,500. While this doesn't mean that Wonga can't lend, I think it should have prompted it to make more checks to assess whether the loan was affordable. Mr M took out two more loans in May and June 2013. I think, given the amount of the loans, Mr M's stated income and the results of the credit check, Wonga should have asked about his normal living expenses and financial commitments, including any short term commitments.*

*There was a break of about five months between Mr M repaying the third loan and taking out the fourth loan, of £250, in December 2013. But given what it knew about Mr M (including the defaults on his credit file) I think Wonga should have asked about his normal living expenses and financial commitments, including any short term commitments.*

*Mr M's living expenses were paid from a joint account with his wife. Both incomes were paid into the account and I think it's likely household expenses were shared. There are payments for loans and other financial commitments from the account. If Wonga had asked Mr M about his living expenses and financial commitments, I think it's likely he would have said his expenses were between about £675 and £1,000 per month. This is based on his actual outgoings (as evidenced by his bank statements) and what he later told Wonga about his expenditure. I haven't seen evidence that Mr M had short term commitments at this time that would have made the loans unaffordable.*

*Based on the information I think Wonga would have received if it had asked about Mr M's outgoings and commitments, I think it would have assessed loans 1 to 4 as affordable.*

#### *Loans 5 to 15*

*Mr M took out the fifth loan in late December 2013 and the amount increased to £400. I think, at this point, Wonga should have asked for information to gain a full understanding of Mr M's financial circumstances. For instance, it could have asked for his wage slips, mortgage, loan and card account statements, utilities and other bills or bank statements.*

*Mr M continued to borrow from Wonga, taking out another 10 loans and four top up loans between January 2014 and October 2014. I think Wonga should have made similar checks before offering these loans.*

*Mr M was paid weekly, so the amount he received in a calendar month varied. In November 2013 his income was about £2,000 and in December his income was about £1,800. Child benefit and his wife's income, totalling about £1,000, were also paid into the account.*

*In November 2013 payments for household and living expenses from the account were about £1,500. There's a mortgage payment of £500 and a loan repayment of £202. Payments to credit card accounts total £64, payments to three debt collection agents total £35 and there are account fees of £72. This comes to £2,370. There are cash withdrawals of £530.*

*In December 2013 payments for household and living expenses from the account were about £1,600. There were two mortgage payments of £400 and £160 and three loan repayments of £50, £51 and £101. There are payments to credit card accounts totalling £89, payments to three debt collection agents totalling £36 and account fees of £30. This comes to about £2,500. There are cash withdrawals of £660.*

*Given their relative incomes, I'd expect Mr M to be responsible for about 2/3 of the household expenses. This is consistent with what Mr M has said about how he and his wife shared expenses. I don't think he had enough income to meet his usual expenses and financial commitments and the loan repayments.*

*I also think Mr M's bank statements show signs of financial difficulty. The irregular payments to his mortgage and loan accounts suggest he had difficulty maintaining contractual payments. And Wonga was aware that Mr M had defaults on his credit file with a balance over £14,500. I think Wonga should have considered whether Mr M was borrowing to meet other debt commitments. Mr M's account was overdrawn, fees were applied for an unplanned overdraft and direct debits were returned unpaid. There are payments to debt collection agents.*

*I think if Wonga had looked more carefully at Mr M's financial circumstances it would have seen that further borrowing wasn't affordable or sustainable. I've read through Mr M's bank statements and I don't think his circumstances improved during the period he took out these loans.*

#### *Loans 16 to 19*

*There was a break of more than a year between Mr M repaying the 15<sup>th</sup> loan and taking out the next loan, of £125, in March 2016. Mr M told Wonga his monthly income was £1,750 and his expenditure (on housing, food, utilities, travel and credit commitments) was £650. I think given the break in borrowing and the amount of the loan compared to Mr M's stated income Wonga's checks were proportionate. I think its checks were proportionate for the next three loans.*

### *Loans 20 to 24*

*When Mr M asked for loan 20, in August 2016, I think Wonga should have made further checks. This was Mr M's fifth loan in six months and his second that month. I think his pattern of borrowing could suggest reliance on short term loans. I think Wonga should have asked for information to gain a full understanding of Mr M's financial circumstances. I think it should have made similar checks before the later loans and top up loans.*

*Mr M was paid weekly, so the amount he received in a calendar month varied. In July 2016 his income was about £2,200 and in August 2016 his income was about £2,300. Child benefit and his wife's income (about £1,000 per month) were also paid into the account.*

*In July 2016 there were payments for household and living expenses from the account of about £1,500. There are two mortgage payments of £500 and £350, a loan repayment of £52.33 and two payments of £229 and £211 to a car finance lender. There were payments to short term lenders (about £175) and to card accounts and debt collection agents (about £90). This totals about £3,000. There are also cash withdrawals over £1,000 and some payments (about £50) to online gambling businesses.*

*In August 2016 there were payments for household and living expenses from the account of about £1,000. There are two mortgage payments of £350 and £253. One payment was resent after being returned unpaid. There were two payments of £200 and £252 to a loan account and two payments of £229 and £211 to a car finance lender. There were also payments to short term lenders (totalling about £400), card accounts and debt collection agents (about £130). This comes to about £3,100. There are also cash withdrawals of £560 and some payments (about £75) to online gambling businesses.*

*Given their relative incomes, I'd expect Mr M to be responsible for about 2/3 of the household expenses. I don't think he had enough income to meet his usual expenditure and financial commitments and the loan repayments.*

*I also think Mr M's bank statements show signs of financial difficulty. The irregular payments to his mortgage and loan accounts suggest difficulty in maintaining contractual payments. I think Wonga should have considered whether Mr M was borrowing to meet other debt commitments. Mr M's account was overdrawn, fees were applied for an unplanned overdraft and direct debits were returned unpaid. There are payments to debt collection agents.*

*I think if Wonga had looked more carefully at Mr M's financial circumstances it would have seen that further borrowing wasn't affordable or sustainable. His circumstances didn't improve between August and December 2016 when he took out the last loan.*

*I don't think Wonga should have offered Mr M the loans and top up loans taken out from and including 28 December 2013 to September 2014 and 26 August 2016 to December 2016. So for each of those loans Wonga should:*

- Refund all interest and charges that Mr M paid on the loans;*
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement\*;*
- Write off any unpaid interest and charges, apply the refund to reduce any capital outstanding and pay any balance to Mr M;*

- *Remove any negative information about the loans from Mr M's credit file.*

*\*HM Revenue & Customs requires Wonga to take off tax from this interest. Wonga must give Mr M a certificate showing how much tax it's taken off if he asks for one. If Wonga intends to apply the refund to reduce any outstanding capital balance, it must do so after deducting the tax.*

Mr M agreed with my provisional findings. Wonga didn't respond to my provisional decision.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I haven't received any further comments or evidence that would persuade me to change my findings from those set out in my provisional decision. For the reasons set out above and in my provisional decision, I don't think Wonga should have offered Mr M the loans and top up loans taken out from and including 28 December 2013 to September 2014 and 26 August 2016 to December 2016.

### **my final decision**

My decision is that I uphold this complaint. I order WDFC UK Limited to:

- Refund all interest and charges that Mr M paid on the loans and top up loans taken out from and including 28 December 2013 to September 2014 and 26 August 2016 to December 2016;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement\*;
- Write off any unpaid interest and charges, apply the refund to reduce any capital outstanding and pay any balance to Mr M;
- Remove any negative information about the loans and top up loans taken out from and including 28 December 2013 to September 2014 and 26 August 2016 to December 2016 from Mr M's credit file.

*\*HM Revenue & Customs requires Wonga to take off tax from this interest. Wonga must give Mr M a certificate showing how much tax it's taken off if he asks for one. If Wonga intends to apply the refund to reduce any outstanding capital balance, it must do so after deducting the tax.*

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 January 2018.

Ruth Stevenson  
**ombudsman**