

complaint

Mr M complains that Curo Transatlantic Limited trading as WageDay Advance (“WDA”) gave him loans that he couldn’t afford to repay.

background

Mr M was given four loans by WDA between January and April 2016. Mr M successfully repaid the first three loans, but a balance remains outstanding on the last loan. A summary of Mr M’s borrowing from WDA is as follows;

Loan Number	Borrowing Date	Repayment Date	Loan Amount
1	05/01/2016	01/02/2016	£ 300
2	08/02/2016	01/03/2016	£ 400
3	03/03/2016	01/04/2016	£ 500
4	04/04/2016	-	£ 500

Mr M’s complaint has been assessed by one of our adjudicators. He thought that the checks WDA had done before giving Mr M the first two loans had been proportionate. But he thought WDA should have done more checks before the third and fourth loans. And he thought that better checks would have shown WDA that Mr M couldn’t afford to repay those loans. So he asked WDA to pay Mr M some compensation. WDA accepted that recommendation and agreed to pay the compensation to Mr M.

But Mr M didn’t agree with the assessment. He thought that WDA should also refund the interest he’d paid on the first and second loans. So, as the complaint hasn’t been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

my findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint. I’ve also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

WDA was required to lend responsibly. It needed to make checks to see whether Mr M 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 M was borrowing, and his lending history, but there was no set list of checks WDA had to do.

WDA has told us about the checks it did before lending to Mr M. It asked him for details of his income, and normal monthly expenditure, before agreeing each loan. Mr M told WDA that his normal income was £1,900 each month, and his expenditure was £660. So from that WDA calculated that Mr M had around £1,240 left over each month that he could use to repay his loans.

I think that these checks were sufficient for the first two loans that Mr M asked for. These were his first loans from WDA. And the amounts he needed to repay appeared to be affordable compared with the disposable income WDA had calculated from the income and expenditure Mr M had declared. So I don't think that WDA did anything wrong in agreeing to give loans 1 and 2 to Mr M.

But I don't think the checks WDA did for the last two loans were sufficient. When Mr M asked for his third loan I think WDA should have been starting to become concerned about the frequency of his borrowing – this was now his third request in less than two months. And the amount that Mr M was asking to borrow had steadily increased too.

When Mr M asked for his third loan, I think WDA should have asked him some further and specific questions about his financial situation – including checking whether he was also taking loans from other short term lenders at the same time. And I think by the time of the fourth loan WDA should have realised that it could no longer rely on the information Mr M was providing. By that time I think WDA should have been independently verifying the true state of Mr M's finances.

But although I don't think the checks WDA did for loans 3 or 4 were sufficient, that in itself doesn't mean that Mr M's complaint should succeed. I'd also need to be persuaded that what I consider to be proportionate checks would have shown WDA that Mr M couldn't sustainably afford the loans. So I've looked at Mr M's bank statements, and what he's told us about his financial situation, to see what better checks would have shown WDA.

I think it was reasonable for WDA to rely on the information Mr M provided about his income and expenditure when assessing the third loan. But, as I said above, I think it needed to supplement this information with specific details of any other short term loans that Mr M had already taken. I can see that, shortly before taking the third loan from WDA, Mr M had borrowed heavily from other short term lenders. The amount he needed to repay was far more than the disposable income he'd declared to WDA. So I don't think he could sustainably afford to repay loan 3.

Before giving him the fourth loan I think WDA needed to independently verify what was happening with Mr M's finances. Had it done so it would have seen that Mr M was borrowing heavily from a large number of other short term lenders. And he was using those loans to fund what appear to be significant numbers of gambling transactions. The amount he was spending each month on gambling was well in excess of the income he'd declared to WDA.

If WDA had done what I consider to be proportionate checks before agreeing loans 3 and 4 it would have seen that Mr M was unable to meet his repayments in a sustainable manner. So, as a responsible lender, I don't think WDA would have agreed to give Mr M these loans. It follows that WDA needs to pay Mr M some compensation.

putting things right

I don't think WDA should have agreed to lend to Mr M on 3 March 2016 (loan 3) or 4 April 2016 (loan 4). So for each of those loans WDA should;

- Refund any interest and charges paid by Mr M on the loans.
- Add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement*.

- Remove any adverse information recorded on Mr M's credit file in relation to the loans.

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

Mr M still owes WDA most of the principal amount he borrowed on his final loan. WDA may use the compensation that is due to Mr M to reduce this balance. But, to be clear, that outstanding balance should be recalculated to remove any interest and charges, but taking account of any repayments Mr M has made on that loan as though they were applied against the principal sum borrowed.

If, as seems likely, a balance still remains on loan 4 WDA should attempt to agree a mutually acceptable repayment arrangement with Mr M bearing in mind the need to continue to treat him in a positive and sympathetic manner.

my final decision

My final decision is that I partly uphold Mr M's complaint and direct Curo Transatlantic Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 5 February 2018.

Paul Reilly
ombudsman