

complaint

Mr L complains that WDFC UK Limited trading as Wonga.com was irresponsible to lend him money that he couldn't afford to repay.

background

Mr L took out 28 payday loans and 19 top-ups between December 2013 and February 2016. He says it was irresponsible of Wonga to agree these loans as he was in a debt spiral.

Wonga says it asked Mr L for details of his income and expenditure and carried out credit checks before agreeing each loan.

The adjudicator recommended that Mr L's complaint be upheld in part. Although Wonga says it asked about Mr L's income and outgoings before agreeing every loan, it could only give us evidence of this for the final seven loans.

But although the adjudicator couldn't see what information Wonga asked for before agreeing loans one to three, he thought if it had checked Mr L's disposable income at the time, loans one to three and the first top-up on loan three, would've still appeared affordable.

The adjudicator thought that by the second top-up of loan three, Wonga should've been checking all of Mr L's outgoings. He thought one of the easiest ways it could've done this was through looking at bank statements. The adjudicator thought that if Wonga had done this, it would've realised Mr L was gambling heavily and regularly. He thought this meant it was irresponsible to continue to lend.

The adjudicator recommended that Wonga refund all interest and charges paid by Mr L from the second top-up on loan three (given in March 2014) onwards. And he asked Wonga to pay simple interest at 8% on this refund and remove any negative information about the affected loans from Mr L's credit file.

Wonga doesn't agree with the adjudicator's recommendation. It says it wasn't obliged to consider bank statements as part of an affordability assessment. Wonga says gambling transactions aside; Mr L had more than enough disposable income to meet his repayments. Wonga thinks that Mr L misrepresented his true financial situation and that under guidance in place, it shouldn't be held liable for this. Finally, Wonga says it can't be held accountable for any losses Mr L suffered if he chose to use the money in other ways.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I agree with most of the conclusions of the adjudicator.

Wonga was required to lend responsibly. It needed to carry out checks to see whether Mr L could afford to pay back each loan in a sustainable way before it lent to him. These checks needed to be proportionate to things such as the amount of the loan and repayments and any borrowing history. But there wasn't a set list of checks Wonga had to do.

loans one to three (including first top-up)

Like the adjudicator, I can't know what information Wonga found out about Mr L's financial situation for much of the time it lent to him. Early on in a lending relationship it would've been reasonable of Wonga to have relied on the information Mr L provided about his income and outgoings. If it had asked for this information (as it says it did), loans one to three would've still appeared affordable.

loan three (from second top-up) to loan four

It's here where I've reached a slightly different conclusion to the adjudicator. Although Mr L topped up loan three a total of three times, as the original loan appeared affordable, I don't think Wonga was wrong to do this. Particularly as at the time, the lending code issued by the Consumer Finance Association said lenders shouldn't roll over a loan more than three times.

I also think a reasonable check before agreeing loan four would've included asking Mr L about all of his outgoings (but not checking what he said against other evidence such as bank statements or bills). If Wonga had asked for this information (as it says it did), loan four would've still appeared affordable.

loan five onwards

I think that Wonga should've been doing much more than it said it was – particularly as by loan five, Mr L had already rolled over loan three and was borrowing regularly.

Wonga should've had concerns that it didn't know enough about Mr L's true financial situation. And that he might have become dependent on short term lending. So it was reasonable to expect it to independently verify the information he gave about his income and outgoings. Wonga could've done this in a variety of ways such as asking to see payslips, bills or bank statements.

But just because I don't think Wonga's checks went far enough from loan five onwards, this doesn't necessarily mean that Mr L's complaint must succeed. I'd also need to be persuaded that more proportionate checks would've shown to Wonga that he couldn't sustainably afford the loans. As I've got Mr L's bank statements, I've used these to consider what Wonga would've seen had it carried out better checks.

Throughout the time Mr L borrowed from Wonga he was spending regular amounts online gambling. For example shortly before taking loan seven, Mr L spent £60 online gambling one day and then £120 the next. Over a three day period in September 2014 (shortly before taking loan 11), Mr L had about £430 of various online gambling transactions.

The pattern continued over the time Mr L borrowed money from Wonga. Shortly before taking loan 24 in November 2015, I can see £220 of online gambling transactions made in one day. And then £120 the next day with two different gambling businesses.

Although Mr L earned over £2,000 each month, he was spending large sums on gambling transactions. He was borrowing from multiple short term lenders. This further reduced his disposable income.

I take Wonga's point that it was Mr L's choice to spend his disposable income in the way he did. But Mr L's gambling is relevant to the question of whether it was likely he would be able to repay the loans in a sustainable way without having to borrow elsewhere.

I think if Wonga had looked at Mr L's financial circumstances in as much detail as I think was proportionate, it would've realised he was using the short term loans to support his gambling habit. And Mr L could only manage to keep up with this and his regular outgoings by taking out further loans from Wonga and other short term lenders.

As a responsible lender, I don't think Wonga would've agree to lend from loan five onwards. Mr L has lost out as a result so it should pay him some compensation.

putting things right

To put things right Wonga should:

- Refund any interest and charges that Mr L paid on loan five onwards (including any top-ups)
- 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 negative information recorded on Mr L's credit file in relation to loan five onwards (including any top-ups)

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

my final decision

My final decision is that I uphold Mr L's complaint in part and direct WDFC UK Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 18 January 2018.

Gemma Bowen
ombudsman