

complaint

Mr B complains that V7 Limited (trading as “Vivus”) irresponsibly gave him payday loans despite him having an extremely poor credit score following many years of borrowing.

background

Mr B was given four payday loans by Vivus. As far as I can see his borrowing history is as follows:

- Loan one taken in March 2016 for £300
- Loan two taken in June 2016 for £400
- Loan three taken in July 2016 for £700
- Loan four taken in October 2016 for £750

One of our adjudicators looked at Mr B’s complaint. He thought proportionate checks wouldn’t have stopped Vivus from giving Mr B loans one and two. But he also thought proportionate checks would’ve stopped it from giving Mr B loans three and four. So he partially upheld the complaint.

Mr B didn’t disagree. But Vivus didn’t respond to our assessment. So the case was passed to an ombudsman. As Mr B hasn’t disputed our adjudicator’s view on loans one and two, this decision is only looking at whether Mr B should’ve been given loans three and four.

my findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint. We’ve explained how we handle complaints about short term lending on our website. And I’ve used this approach to help me decide Mr B’s complaint.

Having carefully considered everything I’ve been provided with, I’m upholding Mr B’s complaint. I’d like to explain why.

Our adjudicator set out in some detail why he thought it would’ve been proportionate for Vivus to have carried out further checks before agreeing to loans three and four. Namely the amount Mr B was borrowing was increasing and Vivus should’ve questioned why Mr B kept coming back for further loans.

The adjudicator also set out why he thought Vivus wouldn’t have given Mr B loans three and four if it had carried out proportionate checks. Namely Mr B was spending a substantial proportion of his income on gambling and it would’ve been apparent that his ability to repay what he was borrowing was wholly dependent on his success as a gambler. As Vivus didn’t respond to our adjudicator’s assessment, I don’t know what it thinks he got wrong.

In any event, I’ve reviewed everything on this case. Having done so, I think proportionate checks would’ve shown Vivus Mr B wasn’t in a position to sustainably repay loans three and four. I also think Vivus ought to have been concerned about why Mr B needed further loans for increasing amounts. And if it had investigated why, Vivus would’ve seen the amount Mr B was gambling and wouldn’t have lent to him in these circumstances. So I also think Mr B lost out because of Vivus’ lack of proportionate checks before giving loans three and four. And I think Vivus needs to put things right.

what Vivus should do to put things right

To put things right for Mr B, Vivus should:

- refund all the interest and charges paid on loan three; and
- refund any payments Mr B made on loan four *after* he paid what he borrowed, if this happened; and
- refund any payments Mr B made, if any, to the third party debt purchaser which went towards any interest and charges on loan four; and
- add interest at 8% per year simple on any of the above interest and charges, should they have been paid, from the date they were paid to the date of settlement†; and
- remove any adverse information recorded on Mr B's credit file as a result of the interest and charges on loans three and four;

Vivus also needs to ensure that Mr B doesn't pay any interest or charges as a result of there having been an outstanding balance on loan four. So it also needs to:

- either pay Mr B the amount needed to reduce any outstanding balance with the third party on loan four so that it no longer includes any interest and charges; or
- buy back the outstanding balance on loan four from the third party and reduce it to ensure it no longer includes any interest and charges, which Mr B shouldn't have paid.

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

my final decision

For the reasons given above, I'm upholding Mr B's complaint. V7 Limited (trading as "Vivus") should pay Mr B compensation as set out above.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr B to accept or reject my decision before 11 June 2018.

Jeshen Narayanan
ombudsman