

complaint

Mr F complains about a number of payday loans he borrowed from Curo Transatlantic Limited (trading as Wageday Advance). He says the loans became difficult to manage and this led him into a debt spiral.

background

I issued a provisional decision on 30 October 2017 where I set out the background to this complaint. A copy of that decision is attached and forms part of this final decision.

In my provisional decision, I set out why I was minded to uphold fewer loans than the adjudicator and so in fairness, I asked both parties to let me have any further comments they wished for me to consider within three weeks. Mr F accepted my provisional decision and Wageday Advance although it confirmed receiving my decision, didn't respond.

This is the final stage of our process and if Mr F accepts my decision, it becomes legally binding.

my findings

I've again 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.

As neither party has provided any information that changes my mind, I see no reason to depart from the conclusions set out in my provisional decision. It follows that I uphold Mr F's complaint in part.

how Wageday Advance should put things right

I don't think Wageday Advance should have given Mr F any of the loans from and inclusive of 28 February 2015. So for each of those loans Wageday Advance should;

- refund any interest and charges Mr F paid towards these 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*. As there's an outstanding balance on Mr F's account, it's only fair for the balance to be offset with the redress and any surplus should be paid to Mr F.
- remove any adverse information recorded on Mr F's credit file in relation to the loans.

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

my final decision

I uphold Mr F's complaint in part and require Curo Transatlantic Limited to put things right as stated above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 27 December 2017.

Oyetola Oduola
ombudsman

copy of provisional decision

complaint

Mr F complains about a number of short term loans taken out with Curo Transatlantic Limited trading as Wageday Advance. Mr F has said that the high interest made the loans difficult to manage and this led him into a debt spiral.

background

Mr F complained through a third party about the loans that Wageday Advance agreed to lend him. Wageday Advance didn't uphold his complaint. It said it carried out the necessary checks before lending to Mr F and it relied on the information Mr F provided about his circumstances to determine whether the loans were affordable. Wageday Advance said that based on the information provided, the loans were affordable for Mr F.

Unhappy with the response from Wageday Advance, Mr F brought his complaint to this service. Our adjudicator looked into the complaint and thought that Wageday Advance's checks for loan one were sufficient but didn't think that the checks from loan two onwards were sufficient. Our adjudicator thought that had Wageday Advance carried out sufficient checks, it would have found that Mr F was unable to afford thirteen of the loans he was lent. Mr F didn't dispute the adjudicator's findings. But Wageday Advance didn't agree with the adjudicator's view and said that it did carry out sufficient checks. Wageday Advance also said it offered assistance to Mr F to help him break the borrowing cycle but he declined the help on one occasion and in the other instance, Mr F repaid the loan early.

From the information Wageday Advance provided from Mr F's account, it looks like he had 17 loans, two of which were rolled over to the following months. For clarity, a summary of Mr F's borrowing history can be found in the appendix, at the end of this decision. Most of these loans were to be repaid in one instalment. Loans one, two and four were to be repaid over a longer period.

As the complaint remains unresolved, it has come to me – an ombudsman for a 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. I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

At the time of the loans, this type of borrowing was regulated by the Financial Conduct Authority (FCA). It's rules (specifically CONC 5.2) states that lenders must consider *"the potential for the commitments under the regulated credit agreement to adversely impact the customer's financial situation, taking into account the information of which the firm is aware at the time the regulated credit agreement is to be made; and the ability of the customer to make repayments as they fall due over the life of the regulated credit agreement, or for such an agreement which is an open-end agreement, to make repayments within a reasonable period"*.

In summary, Wageday Advance needed to take reasonable steps to check that Mr F could sustainably afford to repay the loans.

what checks did Wageday Advance do?

Wageday Advance has told us that it checked Mr F's income and expenses before agreeing each loan. It also said that it used its internal scoring logic to check that the loans were affordable and based on the information it had, there was nothing to suggest that Mr F was unable to afford the loans.

As stated above our adjudicator thought that Wageday Advance's checks for loan one were sufficient and as Mr F didn't dispute this finding, I haven't considered this loan further in this decision.

Turning to loans two onwards, Wageday Advance lent Mr F a second loan of £150 in October 2014 and it carried out similar checks to the first loan. Wageday Advance has said that this loan was due to be repaid in 18 instalments – the maximum repayment was around £42.37. However, I can see that the loan was repaid in full in November 2014 – so it was repaid in a single instalment.

Mr F's recorded monthly income was £1,700 and he told Wageday Advance that his total monthly outgoings were £750 – this included his rent, utilities and other regular costs. This meant that Mr F was left with a disposable income of around £950. Based on this information and the fact that the loan repayments were relatively small compared to Mr F's income, I don't think Wageday Advance should have been concerned about Mr F's ability to repay the loan. So I think the checks carried out for this loan were proportionate.

Loans three and four were both for £80. Loan three was taken out on 5 December 2015 and I don't think Wageday Advance should have done any more to check Mr F's ability to afford loan three. This is due to the relatively small loan amount compared to his income and there was nothing within his borrowing history at this point that should have prompted Wageday Advance to carry out further checks.

Loan four was taken out on 20 December 2014 and it was Mr F's fourth loan in four months. This loan is shown as a multi-pay loan on the information provided by Wageday Advance and it has said it was to be repaid in 18 instalments with a maximum repayment of £24.38. However, I can see that Mr F repaid it in a single instalment – like a payday loan - in February 2015.

For this loan, I don't think it was reasonable for Wageday Advance to rely on what Mr F told it without making further checks. I think by this stage, Mr F was showing signs that he was dependent on short term loans as he was borrowing sequentially. This loan was his second one in December 2015 and he was due to repay it over 18 months. Although it's a relatively small repayment compared to his income, given the length of time Mr F was due to be repaying this loan and it being his fourth loan so far and the second loan within the same month, I think Wageday Advance should have been checking his short term commitments by this stage. So I don't think Wageday Advance's checks were sufficient for loan four.

From loan five onwards, I think Wageday Advance should have been taking steps to build a clear picture of Mr F's financial circumstances and to gain a better understanding of his income and outgoings. I say this because Mr F was taking out the loans as soon as he repaid a previous loan and on more than one occasion he rolled over the repayment of the loan to the next month.

Loan five was almost double the amount of his previous two loans. Also, some of the later loan amounts were higher than Mr F's borrowing from loans one to four, for example loans 6 & 7 were for £200 and loans 12, 13 and 17 were for over £250. I think his pattern of borrowing suggests that he was reliant on short term loans and may have been taking out this type of borrowing to supplement his income. These circumstances should've been sufficient to concern Wageday Advance and prompt further checks. So altogether, I don't think that Wageday Advance's checks for loan five onwards were sufficient or proportionate.

what would proportionate checks have shown?

Loan four was an instalment loan for £80. In addition to asking for Mr F's income and outgoing, had Wageday Advance asked about Mr F's short term commitments, it would have found that Mr F was borrowing from at least three other short term lenders. Mr F had repaid around £650 in November 2014 and had outstanding loans of around £315 with other lenders due at the same time this loan was due to be repaid. The maximum repayment for this loan was £24.38 – given Mr F told Wageday Advance that his monthly income was £1,700 and monthly outgoings were £750, his circumstances suggest that this loan was affordable and I don't think Wageday Advance did anything wrong by giving Mr F this loan.

To try to build a clear picture of Mr F's financial circumstances from loan five onwards, I've looked at Mr F's bank statements and his credit file. Wageday Advance has said that it will only look at credit files and bank statements if it thought it was wrong to have lent. It also said that it relied on Mr F being honest with the information he provided at the point of sale. For the reasons set out above, I think there was enough in Mr F's relationship with Wageday Advance for it to be concerned about his ability to repay the loans. This should have prompted further checks. And although Wageday Advance says that Mr F told it he wasn't in financial difficulties, I don't think it was reasonable for it to rely solely on what Mr F told it. I think from the fifth loan onwards it should have been looking to take further steps to carry out proportionate checks and independently verify Mr F's circumstances.

From what I've seen, had Wageday Advance taken reasonable steps to understand Mr F's financial circumstances better, it's likely to have found that in addition to the income Mr F received from his job, he was also receiving a small amount in child tax credit – this suggests that he had childcare commitments.

Also, Wageday Advance would have seen that Mr F had significant gambling transactions throughout this period – from loan five onwards, he was also on a repayment plan from around July 2015 and his credit file shows that he had at least three defaults on his file. For example in April 2015, Mr F had around £530 of gambling transactions and in July 2015 almost £2,000, his regular gambling continued through to 2016 - in April 2016, he spent almost £1,300 on gambling. Also Mr F continued to borrow regularly from other short term lenders and at the month before he took the last loan in May 2016, Mr F had repaid almost £700 on short term loans and had over £1000 outstanding. I can also see that he was regularly incurring overdrawn account fees and charges.

I think had Wageday Advance been aware of Mr F's circumstances and that his income didn't change, it wouldn't have given any of the loans from February 2015 onwards as he wasn't in a position to sustainably repay the loans.

how I think Wageday Advance should put things it right

I don't think Wageday Advance should have given Mr F any of the loans from and inclusive of 28 February 2015. So for each of those loans Wageday Advance should;

- refund any interest and charges Mr F paid towards these 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*. As there's an outstanding balance on Mr F's account, it's only fair for the balance to be offset with the redress and any surplus should be paid to Mr F.
- remove any adverse information recorded on Mr F's credit file in relation to the loans.

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appendix

Loan number	Date taken	Loan amount	Date repaid
1	25 Aug 14	£100	25 Sep 14
2	2 Oct 14	£150	26 Nov 14
3	5 Dec 14	£80	19 Dec 14
4	20 Dec 14	£80	26 Feb 15
5	28 Feb 15	£150	27 Mar 15
6	27 Mar 15	£200	27 Apr 15
7	30 Apr 15	£200	18 May 15
8	20 May 15	£95	25 May 15
9	25 May 15	£95	3 Jul 15
10	9 Jul 15	£80	27 Aug 15
11	27 Aug 15	£80	27 Sep 15
12	28 Sep 15	£275	26 Oct 15
13	27 Oct 15	£260	27 Nov 15
14	28 Nov 15	£125	18 Dec 15
15	19 Dec 15	£125	20 Apr 16
16	30 Apr 16	£130	3 May 16
17	27 May 16	£275	outstanding