

complaint

Mr T complains that MYJAR Limited gave him loans that he couldn't afford to repay.

background

Mr T has used a claims management company (CMC) to help him make his complaint.

The background to this complaint was set out in the provisional decision I issued in October 2018. An extract from this is attached and forms part of this final decision, so I will not repeat that information here.

In my provisional decision I set out why I didn't think the complaint should be upheld. I invited both parties to let me have any further comments and evidence. MYJAR has said that it accepts my provisional findings. And, although his CMC has acknowledged receipt of my PD and sent it onto him, I haven't received anything more from Mr T.

my findings

I've once more considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Given that MYJAR accepts my provisional findings, and I haven't received anything further from Mr T, I see no reason to depart from the conclusions I reached in my provisional decision.

It follows that I don't uphold this complaint.

my final decision

For the reasons given above, and in my provisional decision, I don't uphold the complaint or make any award against MYJAR Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 13 January 2019.

Paul Reilly
ombudsman

EXTRACT FROM PROVISIONAL DECISION**complaint**

Mr T complains that MYJAR Limited gave him loans that he couldn't afford to repay.

background

Mr T was given nine loans by MYJAR between April 2015 and May 2016. He successfully repaid his first eight loans, but at the time he made his complaint a balance remained outstanding on the final loan. A summary of Mr T's borrowing from MYJAR is as follows;

| Loan Number | Borrowing Date | Repayment Date | Loan Amount |
|--------------------|-----------------------|-----------------------|--------------------|
| 1 | 03/04/2015 | 22/05/2015 | £ 100 |
| 2 | 22/05/2015 | 09/06/2015 | £ 100 |
| 3 | 22/06/2015 | 06/07/2015 | £ 100 |
| 4 | 16/08/2015 | 21/08/2015 | £ 100 |
| 5 | 23/08/2015 | 22/09/2015 | £ 150 |
| 6 | 25/09/2015 | 22/10/2015 | £ 200 |
| 7 | 08/11/2015 | 22/02/2016 | £ 250 |
| 8 | 29/02/2016 | 25/04/2016 | £ 175 |
| 9 | 04/05/2016 | - | £ 100 |

Mr T's complaint has been assessed by one of our adjudicators. He thought that the checks MYJAR had done before agreeing the first three loans had been sufficient. And although he thought MYJAR should have done better checks before agreeing the remaining loans, he didn't think those checks would have shown the loans to be unaffordable. So he didn't think the complaint should be upheld.

Mr T didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide.

my provisional 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.

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

MYJAR has told us about the checks it did before lending to Mr T. Before agreeing each loan it asked him for details of his monthly income and housing costs. And for the last two loans it also asked him for details of his full normal expenditure. MYJAR also checked Mr T's credit file before lending to him. Although I've only seen a summary of the results that MYJAR received I'm not aware of any adverse information on Mr T's records that I think should have caused additional concerns to the lender.

I think the checks I've described above were proportionate for the first two loans. The amounts that Mr T needed to repay were relatively modest. And he was in the early stages of his relationship with MYJAR. So I think it was reasonable for MYJAR to assess that his income would be likely to be sufficient to repay his borrowing.

But when Mr T asked for his third loan, this was now his third request in just over two months. I think MYJAR should have done more here to check Mr T's circumstances by asking him about his normal expenditure. And I think a similar level of checks would have been proportionate when Mr T asked for his fourth loan around seven weeks later.

By the time Mr T asked for his fifth loan I think MYJAR should have been very concerned about his apparent reliance on short term finance. By now it should have considered whether it remained appropriate to base its affordability assessments on information being provided by Mr T. I think that MYJAR should have been taking steps to independently check the true state of Mr T's finances. And as Mr T continued to borrow sequentially from MYJAR I think similar checks would have been proportionate before the remainder of his loans too.

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

Although MYJAR didn't ask Mr T for information about his expenditure before agreeing loans 3 and 4, it did gather these details before the last two loans around eight months later. It doesn't seem that Mr T's financial situation changed much over that time so I've no reason to think Mr T wouldn't have given similar answers if he'd been asked about his expenditure at the time of loans 3 and 4. So I think proportionate checks here would still have led to MYJAR agreeing to lend to Mr T.

For the remaining loans, I've considered what MYJAR would have seen if it had independently checked Mr T's financial situation. From his bank statements I can see that Mr T's income fluctuated from month to month. But it was almost always less than he'd declared to MYJAR.

Mr T's bank statements don't show many of the normal items of household expenditure that I would expect to see. For example there are few utility bills, and no easily identifiable rent or mortgage payments. Mr T has said that he paid some of these costs in cash. But there are also insufficient cash withdrawals showing on his bank statements to support the expenditure that Mr T says he was paying.

But Mr T's bank statements do show some items that I think would have been of concern when looking at his expenditure. Mr T was borrowing regularly from other short term lenders, and so needed to use some of his disposable income to repay those loans. And Mr T was making an ever increasing number of what appear to be online gambling transactions – some months his spend on these transactions was approaching £1,000.

But looking at the repayments Mr T needed to make on loans 5 to 9, alongside his normal expenditure, his repayments to other lenders, and what he was spending on gambling transactions I don't think it would be reasonable at this stage to conclude that he didn't have enough money left over from his normal income to repay his borrowing from MYJAR.

As I said earlier I will consider any additional evidence that either party provide me with in response to this provisional decision. And in particular if Mr T is able to give me further evidence of his normal household expenditure at the time of the loans I may well conclude that at least some of them should have been seen by MYJAR as being unaffordable.