

complaint

Mr E complains that Global Kapital Group Ltd (trading as myKredit) lent to him in an irresponsible manner.

background

Mr E was given seven loans by myKredit between May 2017 and June 2018. Most of the loans were scheduled to be repaid in two or three monthly instalments. Mr E appears to have faced some problems repaying his final loan, but all his loans have now been fully repaid. A summary of Mr E's borrowing from myKredit is as follows;

Loan Number	Borrowing Date	Repayment Date	Loan Amount
1	30/05/2017	15/09/2017	£ 200
2	04/11/2017	15/11/2017	£ 100
3	27/11/2017	03/01/2018	£ 200
4	06/01/2018	15/03/2018	£ 200
5	17/03/2018	15/05/2018	£ 200
6	23/05/2018	17/06/2018	£ 200
7	25/06/2018	23/02/2019	£ 200

Mr E's complaint has been assessed by one of our adjudicators. She didn't think it had been reasonable for myKredit to give any of the loans to Mr E. So she asked myKredit to pay Mr E some compensation.

MyKredit 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. This is the last stage of our process. If Mr E accepts my decision it is legally binding on both parties.

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 set out our general approach to complaints about short-term lending - including all of the relevant rules, guidance and good industry practice - on our website.

MyKredit needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure that Mr E could repay the loans in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that myKredit should fairly and reasonably have done more to establish that any lending was sustainable for a consumer. These factors include:

- the *lower* a customer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

I think that it is important for me to start by saying that myKredit was required to establish whether Mr E could sustainably repay his loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the FCA's Consumer Credit Sourcebook ("CONC") defines sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr E's complaint.

MyKredit has told us about the checks it did before lending to Mr E. It says that it asked him for details of his income, and his normal monthly expenditure. MyKredit says that it performed some analysis on the transactions that were shown on Mr E's bank statements. And myKredit says it checked Mr E's credit file. I haven't seen the results of the credit checks that were done, but I'm not aware of any adverse information on Mr E's credit file that I think should have caused additional concerns to the lender.

Since myKredit had access to the full transaction history on Mr E's bank statements it was in an excellent position to decide whether it should lend to Mr E. I too have looked at the information myKredit would have seen on those statements. And having done so I don't think any of the loans should have been agreed.

It is clear from Mr E's bank statements in the period leading up to his first loan that he was spending significant amounts each month on gambling transactions. His monthly gambling expenditure was often several times his normal income. And Mr E was funding that gambling spending by borrowing from a number of other short term lenders. At the time of his first loan he had around seven other loans outstanding. So I think it should have been clear to myKredit that Mr E was having significant problems managing his money and that it was unlikely he would be able to repay any further borrowing in a sustainable manner.

And over the whole time that Mr E was borrowing from myKredit his situation didn't improve. His bank statements show that he continued to gamble heavily. And they show that he funded that expenditure by continuing to borrow from several short term lenders. So I don't think it was reasonable for myKredit to give any of the loans to Mr E.

Looking at the overall pattern of myKredit's lending history with Mr E I think by loan 4 the lender should also reasonably have seen from that history that further lending was unsustainable, or otherwise harmful. And so myKredit should have realised that it shouldn't provide further loans for that reason too.

I say this because:

- By the time Mr E asked for loan 4 he'd been borrowing from myKredit for a lengthy period and he wasn't making any inroads to the amount he owed the lender. By then Mr E had paid a considerable amount of interest to myKredit to effectively service a debt over an extended period.
- From loan 4 onwards Mr E was provided with a new loan very shortly after settling a previous one. So myKredit ought to have realised it was more likely than not Mr E was having to borrow further to cover the hole repaying his previous loan was leaving in his finances and that Mr E's indebtedness was increasing unsustainably.

I think that Mr E lost out because myKredit continued to provide borrowing from loan 4 onwards because:

- these loans had the effect of unfairly prolonging Mr E's indebtedness by allowing him to take expensive credit intended for short-term use over an extended period of time.
- the sheer number of loans was likely to have had negative implications on Mr E's ability to access mainstream credit and so kept him in the market for these high-cost loans.

So I'm upholding Mr E's complaint about all the loans he was given by myKredit. MyKredit needs to pay him some compensation.

putting things right

I don't think myKredit should have agreed to give Mr E any of the loans. So for each of the loans myKredit should;

- Refund any interest and charges paid by Mr E 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 E's credit file in relation to loans 1 to 3.
- The number of loans taken from loan 4 onwards means any information recorded about them is adverse. So all entries about loans 4 to 7 should be removed from Mr E's credit file.

*HM Revenue & Customs requires myKredit to take off tax from this interest. MyKredit must give Mr E 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 E's complaint and direct Global Kapital Group Ltd to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 2 November 2019.

Paul Reilly
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