

complaint

Mr D complains that CURO TRANSATLANTIC LIMITED trading as Wageday Advance ("Wageday") lent to him irresponsibly.

Background

Mr D borrowed 15 loans from Wageday between August 2015 and May 2017. When Mr D brought his complaint to us in October 2017 the last loan remained outstanding. That may not be the case now as it was some time ago.

Several loans were categorised as 'buyback' or 'rollover' which mean that the loan was deferred or refinanced in some way. Those particular details are not set out here. The number of lending decisions made by Wageday exceeds the number of loans.

The loan table at the end of this decision is a brief summary of the loans approved by Wageday for Mr D. The figures used in it may not be exact and this table is not to be used for the redress calculations.

In the final response letter to Mr D, Wageday offered on two loans but Mr D declined that offer and brought his complaint here.

Our adjudicator thought that Wageday should put things right for Mr D in relation to Loans 8 to 15 and as she upheld on the basis of unsustainability due to the pattern of lending then she recommended that Mr D's credit file be amended by complete removal of all reference to Loans 8 to 15 from that file.

Wageday did not wholly agree. It offered to pay compensation in line with what our adjudicator had recommended. But it offered this from Loan 6 (from the first deferral of Loan 6 which I'll refer to as 6A) to Loan 10. Wageday also agreed to remove these loans from Mr D's credit file. This differs from our adjudicator's view in relation to Loans 8 to 15. It did not explain why but I accept that Wageday does not dispute Loans 6A to 10 anymore so I do not plan to review them in detail in this decision.

Mr D has not disagreed with our adjudicator's findings in relation to the earlier loans (Loans 1 to 7) even though our adjudicator had not been able to properly assess all of them as she needed more information from Mr D. He said he would send this additional information but it has not been received, and so I have nothing new from Mr D. I think that he has had many opportunities to send this to us and so I am proceeding without it.

The result is that I consider that the first few loans are undisputed and I do not plan to review them in detail, but within the context of the overall lending pattern they are highly relevant and I take them into account.

The unresolved ones are Loans 11 to 15 and it is these I plan to review within the context of the overall lending.

Mr D did not agree to Wageday's latest offer and so the complaint has been passed to me 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. We've set out our general approach to complaints about short-term lending on our website and I've taken this into account in deciding Mr D's case. I've decided to uphold his complaint in part and have explained why below.

Wageday 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 Mr D could repay his 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 Mr D'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 a lender should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These would include where:

- a consumer's income is low or the amount to be repaid takes up a substantial portion of their income
- the amount, or amounts, due to be repaid are higher
- there is a larger number and/or frequency of loans
- the period of time during which a customer has been provided with borrowing is long.

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

Bearing all of this in mind, I think that there are three key questions for me to consider in order to fairly and reasonably determine Mr D's complaint. These questions are:

1. Did Wageday, each time it lent, complete reasonable and proportionate checks to satisfy itself that Mr D would be able to repay in a sustainable way? If not, would those checks have shown that Mr D would have been able to do so?
2. Taking into account the short-term purpose of the loans provided, did the overall pattern of lending increase Mr D's indebtedness in a way that was unsustainable or otherwise harmful?
3. Did Wageday act unfairly or unreasonably in some other way?

I've carefully thought about all of these questions and what they mean for Mr D's complaint.

Did Wageday, each time it lent, complete reasonable and proportionate checks to satisfy itself that Mr D would be able to repay in a sustainable way? If not, would those checks have shown that Mr D would have been able to do so?

And as the loans up to Loan 11 are no longer in dispute (as I have outlined above) then I take this no further.

Taking into account the short-term purpose of the loans provided, did the overall pattern of lending increase Mr D's indebtedness in a way that was unsustainable or otherwise harmful?

I've also looked at the overall pattern of lending. I've looked to see if there was a point at which Wageday should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so Wageday should have realised that it shouldn't have provided any further lending. Given the particular circumstances of Mr D's case, I think that this point was reached by Loan 8 and I say this because:

- Wageday ought to have realised it was likely his indebtedness was increasing unsustainably as he took more loans each time
- Mr D wasn't making any real inroads to the amount he owed Wageday. And he was in effect paying large amounts of interest to service this debt over an extended period
- Mr D was demonstrating repayment difficulties from an early stage – there are several defaults, deferrals and rollovers over during the life of the lending relationship.

I think that Mr D lost out because Wageday continued to provide borrowing from Loan 8 onwards because:

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

So I'm upholding Mr D's complaint about Loans 8 to 15 because the overall pattern of lending increased his indebtedness in a way that was unsustainable or otherwise harmful and he lost out as a result. And Wageday has conceded in relation to Loans 6A to 10 already.

Did Wageday act unfairly or unreasonably in some other way?

I've carefully thought about everything provided. Having done so, I've not seen anything here that leads me to conclude Wageday acted unfairly or unreasonably towards Mr D in some other way.

putting things right – what Wageday needs to do

In view of the clear concession from Wageday in relation to Loans 6A to 10 then I include them in this part of the decision for clarity. Wageday needs to:

- refund all interest and charges paid on Loans 6A through to 15;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement*;
- Wageday has agreed to remove any information about Loans 6A through to Loan 7 from Mr D's credit file and so I direct it to do that;
- and in addition to the above, the number of loans taken from Loan 8 to 15 means any information recorded about them is adverse. So all entries about Loans 8 to 15 should be removed from Mr D's credit file.

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

my final decision

For the reasons I've explained, my final decision is that I'm partially upholding Mr D's complaint. CURO TRANSATLANTIC LIMITED trading as Wageday Advance should do as I've set out above.

Under the rules of the Financial Ombudsman Service I need to ask Mr D to accept or reject my final determination on or before 26 March 2019.

Rachael Williams
ombudsman

summary loan table in brief

Loan number	Loan date	Loan amount	Repaid date
1	19 August 2015	£300	2 September 2015
2	2 September 2015	£300	1 October 2015
3	2 October 2015	£350	28 October 2015
4	30 October 2015	£500	25 November 2015
5	25 November 2015	£500	17 February 2016
6, 6A & 6B	16 March 2016	£250/£306	24 May 2016
7	2 June 2016	£150	24 June 2016
8	25 June 2016	£500	20 July 2016
9	3 August 2016	£205	31 August 2016
10	7 September 2016	£170	28 September 2016
11	30 September 2016	£300	26 October 2016
12 & 12A	26 October 2016	£500	31 January 2017
13	2 February 2017	£150	13 March 2017
14	16 March 2017	£100	24 April 2017
15	25 May 2017	£100	Due 21 June 2017