

complaint

Mr S complains that Western Circle Limited gave him loans that he couldn't afford to repay. He asks that it refunds interest and charges.

background

Mr S took out eight loans with Western Circle between July 2015 and January 2017. He says Western Circle was irresponsible to offer the loans. He says he had a lot of short term loans at that time. The adjudicator recommended that the complaint should be upheld, saying:

- The checks made by Western Circle before the first four loans were proportionate. The information it received suggested the loans were affordable.
- Western Circle should have made more checks before loans five to eight. By this time Mr S was borrowing regularly and he was late with repayments for the fourth loan. It should have made full enquiries about his income, expenditure and financial commitments and reviewed supporting statements. If it had done so, it would have known that Mr S's expenditure, financial commitments and gambling meant the loans weren't affordable.

The adjudicator said that Western Circle should refund interest and charges on loans five to eight, with interest at 8%, and remove adverse information about the loans from Mr S's credit file.

Western Circle didn't agree. It said there were gaps between some of the loans. While Mr S was late with payments for loan four he'd repaid other loans early. It said it didn't consider gambling to be an essential living cost. As gambling is a recreational activity it would expect Mr S to adjust his spending according to his disposable income.

Western Circle said its credit checks didn't suggest Mr S had credit commitments in amounts that made the loans unaffordable. It said it only checks bank statements in limited circumstances that didn't apply here.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Loans 1 to 4

Mr S took out the first loan, of £400, in July 2015. The loan was repayable in three instalments of about £182. He repaid the loan at the beginning of October. Mr S took out the second and third loans in October and December 2015. The loans were repayable in monthly instalments of about £180 to £190. Mr S took out the fourth loan, of £350, in March 2016. The loan was repayable in two instalments of about £245.

Mr S provided his monthly income and expenditure each time he applied for a loan. He told Western Circle his monthly income was between £1,600 and £1,700 and his expenditure

was between £150 and £275, including his short term loans. I think, given Mr S's stated income and the amount of the instalments, the checks made by Western Circle were proportionate. The information it received suggested the loans were affordable.

Loan 5

Mr S had difficulty repaying loan four. Western Circle agreed a payment plan and Mr S repaid the loan in July 2016. Mr S applied for loan five, of £400, two days later.

The information provided by Mr S when he applied for loan five suggested it was affordable. But I think Western Circle should have made further checks. This was Mr S's fifth loan and he asked for it two days after repaying the previous loan – which he had difficulty repaying.

I understand that asking a customer for further information or evidence means it takes longer to make a lending decision. But I don't think it was enough for Western Circle to rely on answers to its standard application questions. Western Circle did a credit check and says this didn't suggest the loan was unaffordable. But I think Western Circle is aware that a credit check can't always provide a full picture of a customer's financial circumstances. I think, in the circumstances, Western Circle should have asked for information to gain a full understanding of Mr S's financial circumstances. This doesn't have to be bank statements. I've looked at Mr S's bank statements as this is best evidence available to me of his income and expenditure at that time.

While Mr S's income was about £2,500 in June 2016, this was unusual. His income was about £1,600 in April, May and July 2016. In June 2016 Mr S made payments for normal living expenses of about £170 and he withdrew cash of about £270. He made payments of £130 to a credit card account, £290 to other short term lenders and about £800 to gambling businesses. He made payments to family and friends of about £600. These appear to be repayments of money owed, which could be for loans or shared expenses.

While gambling can be recreational I think Mr S's pattern of spending should have alerted Western Circle to a possible problem. A significant proportion of his monthly income was spent on gambling. He was borrowing from short term lenders and family and friends. And he'd had difficulty meeting his loan repayments previously. I think Western Circle should have considered whether Mr S was borrowing to repay other debts. I don't think further borrowing was affordable or sustainable.

Loans 6 to 8

Mr S took out loan six, of £350, in early October 2016. He repaid loan 6 in mid October 2016 and took out loan 7, of £300, in late October 2016. Both loans were repayable in instalments.

I think, given Mr S's pattern of borrowing, Western Circle should have made further checks before offering these loans. I think it should have asked for information to gain a full understanding of his financial circumstances.

Mr S's income was about £1,600 in August and £1,800 in September 2016. In September 2016 Mr S made payments for normal living expenses of about £230 and withdrew cash of about £250. He made payments of £70 to a credit card account, £146 to other short term lenders and about £540 to gambling businesses. He made payments to family and friends of about £836. His expenditure was more than his income. I don't think further borrowing was

affordable and Western Circle would have known this if it made proportionate checks before offering loans 6 and 7.

Mr S took out loan 8, of £400, in December 2016. This was repayable in three monthly instalments of about £185.

Mr S's income was about £1,600 in November and December 2016. While Mr S received money from family and friends I don't think this was income. I think it's more likely to be loans. In November 2016 Mr S made payments for normal living expenses of about £600 and withdrew cash of about £150. He made payments of £30 to a credit card account, £260 to other short term lenders and about £390 to gambling businesses. He made payments to family and friends of about £700. He'd taken out a short term loan of over £1,000 (on which he'd have owed interest) and I can't see that this was repaid before he took out the loan with Western Circle. I don't think further borrowing was affordable.

I don't think Western Circle should have agreed to lend to Mr S after, and including, the fifth loan (taken out in July 2016). So for each of those loans Western Circle should:

- Refund all interest and charges that Mr S paid on the loans;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
- Remove any negative information about the loans from Mr S's credit file.

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

my final decision

My decision is that I uphold this complaint. I order Western Circle Limited to make the changes to Mr S's credit file and pay the compensation set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 16 April 2018.

Ruth Stevenson
ombudsman