

complaint

Mr B complains about payday loans he had with DJS (UK) Limited (trading as Piggybank) which he says shouldn't have been given to him because the loans weren't affordable.

background

A summary of Mr B's borrowing history is as follows;

loan number	loan amount	received date	actual repayment date	term of agreement (days)
1	£300	08/11/2014	29/01/2015	30
2	£400	30/01/2015	13/04/2015	33
3	£500	14/04/2015	29/06/2015	22
4	£600	13/07/2015	18/08/2015	3 months
5	£250	15/10/2015	16/12/2015	20

An adjudicator looked at the complaint and he felt the checks Piggybank carried out on the first loan went far enough. But Piggybank should've carried out further checks on the remaining loans. Had further checks been carried out, Piggybank would've seen that Mr B was using most of his money to gamble. And knowing this, Piggybank wouldn't have given him loans two to five.

Piggybank didn't respond to the adjudicator's recommendation, so the case has been passed to me for a final 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. Having done so, I think Mr B's complaint should be partly upheld. And I've explained my reasons below.

Piggybank had to gather enough information to be able to make an informed choice as to whether it was going to lend. However, the guidance and rules don't set out what checks must be done before lending is approved. But Piggybank needed to conduct enough checks to make sure the loans were affordable to Mr B. And these checks needed to be proportionate to a number of things such as the size of the loan and when the loan was due to be repaid.

But even if the checks Piggybank carried out weren't proportionate, that alone doesn't mean Mr B's complaint should be upheld. I say this because, it's possible, had further checks been carried out by Piggybank they would've shown Mr B was able to repay his loans. So Piggybank wouldn't have been wrong to lend him the money.

Piggybank says that it had a two stage affordability check. Firstly it asked for details of Mr B's income and expenditure. For the second stage this information may be changed if further commitments were found on Mr B's credit file. Piggybank says that Mr B passed the checks so it was reasonable to lend to him. But I've thought about what Piggybank says and Mr B's circumstances at the time each loan was approved. And having done so, I don't think the checks Piggybank carried out were proportionate for some of the borrowing.

Loan 1

Piggybank says that it took details of Mr B's income (and it says Mr B told it he earned £1,400 per month) as well as asking him questions about his outgoings (which Mr B says were £525). So taking into account the amount that Mr B needed to repay, and that the information that Mr B gave Piggybank showed it that the loan repayment was affordable. I think the checks for this loan went far enough and I don't think Piggybank was wrong to give him this loan.

Loan 2

The checks didn't go far enough, given what Piggybank says was Mr B's declared income, the amount he needed to repay on this loan – over £500 I think Piggybank should've been asking Mr B some further questions about his other short term commitments – this is in addition to knowing about his normal living costs and regular financial commitments.

Having reviewed Mr B's bank statements from the time the loan was approved; Mr B owed other short term creditors over £1,300. So Mr B wasn't in a position to take on this loan given his income and normal living costs that he had declared to Piggybank. This is something Piggybank would've most likely been aware of by carrying out a proportionate check and as a responsible lender; it wouldn't have given Mr B the loan.

Loans 3 – 5

The amounts Mr B was borrowing were steadily increasing and he had deferred repayment on his previous loans. His repayment history showed that he took out further loans within a short space of time of repaying earlier ones. And this should've prompted Piggybank to carry out more rigorous checks in order to gain a full understanding of Mr B's financial situation. It could've done this a number of ways, such as asking for evidence of his income and outgoings or it could've asked to see his bank statements, as I've done here. So I don't think the checks carried out on loans three, four or five went far enough.

The bank statements are the best indication of Mr B's ability to afford the loans at the time each one was approved, so I don't think it's unreasonable to rely on these.

Having reviewed Mr B's bank statements throughout his borrowing history with Piggybank, I don't think he could afford to repay his loans. Mr B was regularly spending more than his income each month – with a significant amount of his expenditure going on gambling, and Mr B also had to repay his other short term credit commitments. I can also see from Mr B's bank statements that he was exceeding his overdraft limit on a regular basis – which incurred further charges. And had Piggybank carried out proportionate checks this would've been brought to its attention and it would've seen Mr B couldn't afford to repay what he'd borrowed. So I'm upholding his complaint about these loans.

what Piggybank should do to put things right

To put things right for Mr B, Piggybank should:

- refund all the interest and charges paid by Mr B on loans 2, 3, 4 and 5;
- add interest at 8% per year simple on the above interest and charges from the date they were paid to the date of settlement †;
- remove any adverse information recorded on Mr B's credit file because of these loans.

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

my final decision

For the reasons I've explained above, I'm partly upholding Mr B's complaint.

DJS (UK) Limited should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr B to accept or reject my decision before 21 August 2017.

Robert Walker
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