

## complaint

Miss M complains that DJS (UK) Limited (trading as Piggybank) gave her a loan she couldn't afford to repay. She asks that it refunds interest and charges, with 8% interest, and removes the loan from her credit files. She also asks for compensation for the upset caused by the way Piggybank responded when she couldn't repay the loan.

## background

Miss M took out a £150 loan with Piggybank in December 2012. She says she was in financial difficulty and using payday loans to repay existing debts. She says it took payments, leaving her without money for food.

The adjudicator recommended that the complaint should be upheld, saying:

- Piggybank said Miss M reported her income as £1,550 with zero expenses. Piggybank used Office of National Statistics data to estimate Miss M's expenses. The adjudicator said Miss M's mortgage payment alone was more than its estimate of her expenses. The adjudicator said Piggybank should have asked Miss M for information about her expenditure. The loan wasn't affordable.
- Miss M was unable to maintain payments. Piggybank applied daily interest, arrears charges and late payment fees. It applied a default charge in March 2013 and a debt recovery charge in April 2013. Piggybank continued to apply interest. The adjudicator said Piggybank wasn't positive or sympathetic to Miss B's financial difficulties.

The adjudicator recommended that Piggybank refunds interest and charges from 11 March 2013. Piggybank didn't respond to the recommendation.

## my provisional findings

I sent a provisional decision to the parties setting out the following provisional findings:

*Miss M told Piggybank her net monthly income was £1,550. Piggybank used Office of National Statistics data and information from a credit check to estimate her expenses. The loan was for £150. Given the amount of the loan and Miss M's stated income, I'd usually find these checks proportionate. But the credit check showed Miss M had overdrafts, credit card debt and payday loans of over £5,000 and she had three defaults recorded in October and November 2012. I think this suggests Miss M had financial problems and should have prompted Piggybank to ask more questions. It should have asked for information about Miss M's income and outgoings to assess whether the loan was affordable.*

*Miss M provided some of her bank statements. These show monthly income of about £1,400 plus child tax credits. She makes monthly mortgage payments of £630. Her account is overdrawn, sometimes by more than £2,000, and she has payments returned unpaid. She made payments in August 2012 of £148 to a phone/internet provider, council tax payments of £105, £340 to payday lenders and about £620 to other lenders.*

*Miss M's bank statement doesn't show any earned income after August 2012 and debt payments also stop after September 2012. It's likely Miss M used a different*

*bank account, leaving this one overdrawn by over £2,000. I can see from the credit check that Miss M had another current account which was also overdrawn by about £2,000, as well as outstanding payday loans (£719), credit card debt (£700) and debts to phone suppliers (£560) as well as her mortgage and a personal loan.*

*From what I've seen, I don't think Miss M had enough income to repay her existing debts and the loan from Piggybank and have enough left for living expenses. I don't think the loan was affordable or sustainable and Piggybank would have seen this if it did proper checks.*

*I think it's fair and reasonable that Piggybank refunds any interest and charges applied to the loan, with interest at 8% simple per year. It should deduct the refund from any capital outstanding and pay Miss M any balance.*

*If an unpaid balance remains after the refund, Miss M should repay this as she's had use of the money. If her financial circumstances make this difficult, she should contact Piggybank about agreeing a suitable repayment plan. Piggybank should remove any adverse information about the loan from Miss M's credit file.*

Miss M agreed with my provisional findings. Piggybank didn't respond.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I haven't received any comments or new evidence since my provisional decision. I see no reason to change my findings or reach a decision different from my provisional decision.

### **my final decision**

My decision is that I uphold this complaint. I order DJS (UK) Limited to:

- refund all interest and charges applied to the loan plus pay interest at 8% simple per year from the date each sum was paid until the date of settlement. This should be offset against any outstanding capital sum; and
- remove any adverse information about the loan from Miss M's credit files.

If tax is deducted from the 8% interest awarded, appropriate documentation should be provided to Miss M for HMRC purposes.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 9 December 2016.

Ruth Stevenson  
**ombudsman**