Financial Ombudsman Service

complaint

Mr H complains WDFC UK Limited, trading as Wonga, lent to him irresponsibly. He says this caused him to spiral into debt and take out loans with other short-term lenders in order to repay Wonga.

background

Mr H's complaint is about 15 loans he had with Wonga. Mr H had 17 loans in total, but isn't complaining about the first two. I've included some of the information Wonga has given us about the loans in the table below (including the first two loans, for context).

Loan no.	Start Date	End Date	Loan Amount (GBP)
1	28/08/2013	27/09/2013	267
2	28/09/2013	28/10/2013	403
3	23/12/2014	30/12/2014	301
4	12/02/2015	27/02/2015	96
5	27/02/2015	20/03/2015	402
6	20/04/2015	28/05/2015	100
7	28/05/2015	04/07/2015	252
8	06/07/2015	05/08/2015	65
9	11/08/2015	10/09/2015	150
10	15/09/2015	05/10/2015	96
11	31/10/2015	27/11/2015	190
12	15/12/2015	17/02/2016	305
13	19/04/2016	22/07/2016	250
14	02/12/2016	23/01/2017	150
15	28/01/2017	02/02/2017	198
16	06/02/2017	20/03/2017	150
17	20/03/2017	18/05/2017	297

I understand loans 3-11 were payday loans with one repayment and loans 12-17 were loans with multiple instalments.

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 have also taken into account the law, any relevant regulatory rules and good industry practice at the time.

did Wonga carry out proportionate checks?

The first loan I'm looking at, loan 3, was taken out in December 2014. Mr H had two loans with Wonga in 2013. Both of those loans were taken out over a year before the lending I'm looking at. So at the time of loan 3, I think Wonga was entitled to treat Mr H similarly to a new customer.

Loan 3 was for £301. It looks like Wonga recorded Mr H's income as £1,850 a month. Given the likely size of the repayment, I think Wonga ought to have at least asked Mr H for some information about his regular monthly expenditure, to make sure it was affordable. But there's no evidence it did this, so I don't think Wonga's checks were proportionate.

Loan 4 was much smaller and I think it was reasonable for Wonga to rely on the credit checks and income information it asked for. I won't therefore say anything more about this loan.

The fifth loan was taken out on the same day loan 4 was repaid. The loan was larger than both the preceding loans and the repayment would probably have been about a quarter of Mr H's declared income. In the circumstances, I think I proportionate checks should've included obtaining detailed information about Mr H's monthly expenditure, including regular living costs, as well as payments to regular and short-term creditors. Wonga hasn't shown that it captured any expenditure information at this point, so I don't think its checks were proportionate.

Loan 6 was for a lot less than loan 5 – but was Mr H's fourth loan in four months. So I think Wonga still should've asked for the same type of expenditure information as above. It seems it didn't do this, so again I find its checks were not proportionate.

Loan 7 started on the same day loan 6 ended and was Mr H's fifth loan in five months. I think this sort of regular borrowing is indicative of Mr H being reliant on taking out new loans to get through the month. To check whether or not this was the case, I think it would've been proportionate for Wonga to undertake a full review of Mr H's financial circumstances, verifying information where necessary. This could've included asking for things like payslips and bank statements.

It doesn't look like Wonga did this. So I don't think the checks were proportionate. And I think this is also the case for loans 8 to 17. There was only one notable gap in the borrowing between loans 8 and 17 - a gap of four months between loans 13 and 14. The gaps between the other loans were shorter, or non-existent. So I still think the overall pattern of Mr H's borrowing, together with the number of loans he took and the overall length of the chain of borrowing – being just over two years – are indicative of someone reliant on credit. I don't think it was therefore proportionate for Wonga to rely on self-attested income, or self-attested expenditure, for as long as it did.

what would proportionate checks have shown?

Like the adjudicator, I don't think proportionate checks would've shown any of loans three to six to be unaffordable.

At the time of the third loan, it seems Mr H told Wonga he was employed earning £1,850 a month. If Wonga had asked him about his regular living expenses and payments to regular creditors, I think Mr H would've said these came to around £700 a month, which is similar to what he told Wonga at a later date. So I think loan 3 would've appeared affordable to Wonga. I appreciate that Mr H thinks his outgoings were in fact higher at around this time. But it seems Mr C estimated his outgoings were around £700 a month when Wonga did ask him, so I think he'd have made a similar estimate at this time.

I've looked at whether Mr H had any short-term credit commitments when he applied for loans 5 and 6, to see what proportionate checks would likely have shown. I can't see that

Mr H had any outstanding loans with short-term creditors at these times. So I think proportionate checks would probably have suggested Mr H had enough available income to afford these loans, for broadly the same reasons as loan 3.

From loan 7 onwards, I've explained why I think Wonga should have been taking steps to verify Mr H's income and expenditure. I've looked at Mr H's bank statements, to give me an idea of what proportionate checks would have shown.

I think at this time Mr H was earning about £1,765 a month. I can see that Mr H made a £700 monthly mortgage payment. He also told us he spent around £250 a month on petrol, £100 on mobile phone payments and £200 on food. These figures seem plausible, based on the bank statements I've checked. Mr H also had payments to regular creditors totalling about £360 a month. So Mr H's total usual living costs were in the region of £1,600. So I don't think Mr H could've met the repayment for loan 7 from his income and/or savings (it doesn't appear Mr H had any savings). I therefore think proportionate checks would've shown loan 7 to be unaffordable.

Loan 8 was notably smaller than the preceding loan. But it was taken out only two days after loan 7 ended and was Mr H's sixth loan in as many months. Given the indications of dependency on borrowing – and that the regulations suggest pay day loans aren't intended for use over the long term – I think Wonga should still have been taking into account the full picture of Mr H's financial circumstances. From the information I have, including Mr H's bank statements, I think his actual monthly disposable income was still around £165. Taking into account the interest Mr H would have to pay, I don't think it's likely proportionate checks would have shown the loan to be affordable.

I've looked at loans 9-11 in the same way and am satisfied that the situation remained broadly similar in terms of Mr H's normal living costs and regular financial commitments – although some statements suggests he may have spent less on petrol. Another noticeable change is that payments to other short-term lenders increase and the amount Mr H spends on gambling also increases (*e.g.* in July 2015 Mr H spends over £1,000 on online betting). Mr H's income also seems to fluctuate and in some months he earns a few hundred pounds less than he did in and before April 2015. So I think the overall picture Wonga would have obtained had it carried out proportionate checks would've been of a deterioration in Mr H's financial situation, which would likely have shown it Mr H wouldn't have been able to sustainably repay loans 9-11.

Loans 12-17 were instalment loans, all with three payments. The information Wonga has provided shows that the instalments for loans 12-17 were as follows: £175.41, £130.75, £86.48, £99.51, £78.45 and £155 (the pennies amount could vary slightly).

I've looked at what I think proportionate checks would have shown, taking into account the instalment amounts. But although the instalments were generally relatively modest, I don't think proportionate checks would have shown that Mr H could repay loans 12-17 sustainably. I've checked his bank statements throughout the period and if Wonga had carried out similar checks, I think it would have seen Mr H's expenditure generally exceeded his income and that he was relying on a number of short-term and regular creditors to maintain this level of expenditure. So for Mr H to meet his repayments to Wonga, it was likely he'd need to borrow to repay either it, or to repay another existing creditor. So I think proportionate checks would have shown Wonga Mr H was in an unsustainable financial situation – and that it wouldn't be responsible to lend to him.

To give an example of what I think Wonga would have seen – in February 2017 it looks like Mr H's verifiable income was around £1,600. His mortgage payment had dropped to around £500. But he was paying regular creditors around £440 a month and other short-term instalment loan lenders around £160 a month. Mr H's other regular expenditure included at least £700 spent on gambling. So it looks like his expenditure exceeded his income, even before taking into account other expenses like petrol and food.

At this time, Mr H was also transferring funds to another account – I've checked this and I'm satisfied that this account was used for day-to-day expenditure and cash withdrawals and wasn't a savings account, or an account into which other verifiable income was being deposited. In other words, Mr H was spreading his available funds over two accounts – this doesn't therefore impact any assessment of affordability.

In summary, I think proportionate checks would've shown Wonga that Mr H was using short-term loans not to meet a temporary cash flow problem, but instead to maintain an unsustainable level of regular spending. I think Wonga would also have realised Mr H was unlikely to be able to sustainably afford the repayments he needed to make on these loans. So Wonga wasn't acting as a responsible lender when it provided them.

I've thought about the points raised by Wonga in response to the adjudicator. It has said it doesn't think there were indications Mr H was in financial difficulty. But I think Wonga would have been aware the lending had become unsustainable if it had carried out proportionate checks. The point that Wonga has made about Mr W repaying the loans on time therefore doesn't change my mind. The relevant regulations require that the loans be *sustainably* repayable – given Mr W's apparent reliance on credit to meet his regular expenditure, I don't think this was the case. I'd also point out that I'm not saying the number of loans Mr H had is reason in itself to uphold the complaint. But I do think the number of loans and all the other factors here gives an indication of financial difficulty. I think that a responsible lender would have asked Mr H further questions to check whether this was the case.

Finally Wonga has mentioned the sort of things the relevant regulations say it may take into account as part of an affordability assessment. It's also quoted Office of Fair Trading guidance on inaccurate/untrue statement by borrowers. But these points don't change my mind either. As I've explained above, I think there were times (loans 3-6) when Wonga *could* have reasonably relied on Mr H's self-attested income, without verifying it. In these circumstances, I agree it wouldn't be reasonable to consider Wonga at fault if it had asked for this information and it turned out Mr H had got it wrong.

But I think Wonga should have become more sceptical over time about the true nature of Mr H's financial position. He borrowed from Wonga for more than two years, so his need for this type of credit couldn't reasonably be described as short-term. So I remain of the view that it would have been proportionate for Wonga to start verifying the information Mr H was giving it from loan 7 onwards – I think Wonga had reason to suspect it didn't have an accurate enough picture of Mr H's financial circumstances by then.

what Wonga needs to do to put things right

Wonga must:

- refund all the interest and charges paid by Mr H on loans 7 to 17

- add interest at 8% per year simple on the above, from the date they were paid to the date of settlement†
- remove any adverse information recorded on Mr H's credit file about these loans

†HM Revenue & Customs requires Wonga to take off tax from this interest. Wonga must give Mr H 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 in part. WDFC UK Limited must put things right by doing what I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 4 June 2018.

Matthew Bradford
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