

complaint

Mr C complains that MYJAR Limited lent to him in an irresponsible manner.

background

Mr C was given five loans by MYJAR between June 2016 and September 2017. Loan 1 was repayable in a single instalment. The remaining loans were repayable over either three or six months. Mr C appears to have faced some problems repaying his final loan and MYJAR reduced the amount of interest he needed to pay. But all of Mr C's loans have now been closed. A summary of Mr C's borrowing from MYJAR is as follows;

Loan Number	Borrowing Date	Repayment Date	Loan Amount
1	15/06/2016	01/08/2016	£ 125
2	26/12/2016	11/04/2017	£ 100
3	27/06/2017	29/07/2017	£ 500
4	12/08/2017	31/08/2017	£ 250
5	01/09/2017	04/05/2018	£ 800

Mr C's complaint has been assessed by one of our adjudicators. He didn't think MYJAR had been wrong to give the first four loans to Mr C. But he didn't think the final loan should have been agreed. So he asked MYJAR to pay Mr C some compensation.

MYJAR didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process. If Mr C accepts my decision it is legally binding on both parties.

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 - including all of the relevant rules, guidance and good industry practice - on our website.

MYJAR 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 that Mr C could repay the 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 the consumer'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 MYJAR should fairly and reasonably have done more to establish that any lending was sustainable for a consumer. These factors include:

- the *lower* a customer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);

- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

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

I think that it is important for me to start by saying that MYJAR was required to establish whether Mr C could sustainably repay his loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the FCA's Consumer Credit Sourcebook ("CONC") defines sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr C's complaint.

MYJAR did some checks before it lent to Mr C. It asked him for details of his income, and his normal expenditure. And it checked his credit file before agreeing the loans. I've seen a summary of those checks and I don't think they showed anything that should have caused additional concerns to the lender.

I think that the checks MYJAR did before agreeing the first four loans were proportionate. The amounts that Mr C needed to repay were small compared with the disposable income he'd declared. Given these repayment amounts, what was apparent about Mr C's circumstances at the time, and his borrowing history with the lender, I don't think it would've been proportionate for MYJAR to ask him for the amount of information that would be needed to show the lending was unsustainable before agreeing the first four loans.

But I think, by the time Mr C asked for loan 5, that MYJAR should have realised that it couldn't safely rely on the information he was providing about his finances. This was now Mr C's fifth loan and he'd been borrowing with little break for a considerable period of time. The amount Mr C was asking to borrow had also increased significantly. So I think MYJAR should have taken steps at that time to independently verify Mr C's true financial position.

I've looked at extracts from Mr C's bank statements at the time to see what better checks would have shown to MYJAR. From those it is clear that Mr C was facing significant problems managing his money and was spending large amounts on what appear to be online gambling transactions. Had it seen that I don't think it would have been reasonable for MYJAR to conclude that this loan could be repaid in a sustainable manner.

So I don't think that MYJAR should have agreed to give loan 5 to Mr C. MYJAR needs to pay him some compensation.

putting things right

I don't think MYJAR should have agreed to give the final loan (loan 5) to Mr C. So in relation to that loan MYJAR should;

- Refund any interest and charges paid by Mr C on the loan.
- Add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement*.
- Remove any adverse information recorded on Mr C's credit file in relation to the loan.

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

my final decision

My final decision is that I uphold part of Mr C's complaint and direct MYJAR Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 13 December 2019

Paul Reilly
ombudsman