

complaint

Mr R says Global Kapital Group Ltd (trading as MyKredit) lent to him irresponsibly.

background

Mr R had seven loans with MyKredit between January and June 2017. Our adjudicator thought MyKredit had acted irresponsibly by approving all of these loans. This was because MyKredit had carried out an analysis of Mr R's bank transactions before lending to Mr R. And this analysis showed substantial gambling expenditure as well as significant amounts of other high-cost credit. The adjudicator thought that the level of Mr R's expenditure meant that he'd be unlikely to be able to sustainably repay the loans.

MyKredit didn't agree, so the complaint was passed to me to decide.

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 on our website and I've taken this into account in deciding Mr R's case.

MyKredit was required to lend responsibly. Broadly, this means it was required to carry out proportionate checks before lending. One of the checks MyKredit carried out was an analysis of Mr R's bank transactions – and I intend to focus on what MyKredit found out from this check.

In the month before the first loan it approved (December 2016) MyKredit was aware that there were a large number of gambling transactions on Mr R's bank statements – about 50 of which were outgoing funds. Our adjudicator estimated that Mr R's gambling expenditure for December 2016 was about £4,000. Having looked at the information MyKredit provided, the total amount spent is in my opinion closer to £7,000. Mr R appears to have received about £3,500 back – leaving total net expenditure (or perhaps net loss) for that month of £3,500.

It's also notable that in December 2016 Mr R was spending a significant amount of his income repaying credit, he was relying on a number of other (about five) high-cost lenders and was often significantly overdrawn. A reasonable estimate is that Mr R paid other high-cost lenders about £1,000 in December. He also appears to have spent over £600 repaying other regular creditors, including payments towards credit cards and non-high cost loans.

In a typical month Mr R received around £3,600 from what appears to be his employer (I've noted his pay in July 2016 was higher, but this seems to have been a one off and is six months before the first loan was approved). On balance, I think Mr R's monthly expenditure usually exceeded his monthly income.

So in my view, it was clear from the information that MyKredit obtained that Mr R's expenditure wasn't sustainable. He was relying on credit to repay credit and using credit to meet ordinary living costs as well as to fund his gambling expenditure. The gambling expenditure alone in December 2016 seems to exceed Mr R's regular income.

In response to the adjudicator's view, MyKredit said:

"Gambling behaviour is of course a big risk factor but we believe this must be reviewed in a broader sense and the account's general status and repayment terms must be taken into consideration too. And unfortunately "no risk"... does not exist. We are a short term creditor and the people we lend [to] are in the relatively risky part of the society who need financial help to get back on their feet."

I assume that when MyKredit refers to the 'broader sense' and 'repayment terms' it means that it thinks the loan repayments were individually affordable, regardless of Mr R's broader circumstances. If this is what it means, I don't agree.

MyKredit was required to check whether the loans were *sustainably* affordable – the concept of sustainability was defined by the regulator in its consumer credit sourcebook (CONC). A number of parts of CONC are relevant in this regard, but particularly CONC 5.3.1, paragraph 6 of which said:

"For the purposes of CONC "sustainable" means the repayments under the regulated credit agreement can be made by the customer:

(a) without undue difficulties, in particular:

...

(ii) without having to borrow to meet the repayments;

...

(b) out of income and savings without having to realise security or assets..."

If MyKredit assumed (as I think it must have) that Mr R was likely to be able to repay the loans without undue difficulty, without having to borrow again and out of his income, I think it was wrong to do so. Given all of the evidence it had from his bank transactions, it was particularly unlikely that he wouldn't have to borrow to meet the repayments and so it was unlikely the repayments would be made from his income.

I understand the comments MyKredit made about the market it serves. But in Mr R's circumstances, I think it's unlikely the lending would have 'helped him get back on his feet'. If anything, in his circumstances, it would likely have the opposite effect and only serve to increase his indebtedness in an unsuitable manner.

MyKredit had a fairly clear picture of Mr R's financial circumstances. In my view, it ought to have realised from the information in its possession that it wasn't appropriate to lend to him. So I'm upholding Mr R's complaint about all of MyKredit's lending.

putting things right

MyKredit should refund all of the interest and charges Mr R paid on all of his loans. It should add interest at 8% simple per year to this refund, from the date Mr R paid the interest and charges (if he did), to the date of settlement.[†] It should also remove any adverse information it has recorded about the first six loans from Mr R's credit history.

I understand that the last (seventh) loan was sold to a third party and was repaid. MyKredit will need to liaise with the third party to obtain the appropriate figures for the above refund of interest and charges. It will also need to ask the third party to remove the loan from Mr R's credit history.

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

my final decision

For the reasons given above I uphold this complaint against Global Kapital Group Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 11 October 2019.

Matthew Bradford
ombudsman