

complaint

Mr K complains that MYJAR Limited gave him loans without checking he could repay them.

background

Mr K took out the following instalment loans with MYJAR:

	date	amount borrowed	original term	date repaid
1	19 December 2015	£100	33 days	31 December 2015
2	22 April 2016	£450	189 days	19 May 2016
3	13 August 2016	£700	104 days	ongoing

Mr K says that MYJAR was irresponsible to lend to him without carrying out basic checks to see if he could afford the repayments. He says he had a gambling habit and several ongoing payday loans at the time he borrowed from MYJAR.

MYJAR didn't think it had done anything wrong but, as a gesture of goodwill, it offered to reduce the amount Mr K owed in relation to loan three from £1,400 to £1,128.83. It said £1,128.83 was the amount Mr K would've repaid if he made the three repayments for loan three on time. MYJAR offered Mr K a repayment plan. Mr K didn't accept MYJAR's offer.

Our adjudicator said MYJAR had done enough to check whether Mr K could repay loans one and two but that it shouldn't have given Mr K loan three. He said that was because of the frequency of the loans.

The adjudicator said MYJAR should've checked Mr K's normal monthly income and expenses and regular and other short term financial commitments before loan three. He said if MYJAR had done that, it would've seen that he had short term financial commitments that were more than his disposable income. He said that Mr K had come to rely on short term lending and couldn't afford to repay loan three. The adjudicator set out what he thought MYJAR should do to put that right.

MYJAR didn't agree with the adjudicator's view. It said:

- The checks it carried out were proportionate and indicated Mr K could afford the repayments.
- There were gaps between Mr K's borrowing.
- It asked about Mr K's net monthly income and some of his living costs. That indicated he could afford the repayments.
- It wasn't obliged to look at Mr K's bank statements and the bank statements Mr K has now provided to this service can't be an accurate representation of Mr K's financial circumstances at the relevant time.

my findings

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

Before agreeing to lend to Mr K, MYJAR had to check each time that he could afford to make the repayments. The checks it did had to be proportionate. What's proportionate depends on things like the size of the loan repayments and the information MYJAR had about Mr K. There's no set list of the checks a lender should carry out.

Before agreeing to loan one, MYJAR asked Mr K about his monthly income and some of his living costs and financial commitments, which it recorded as £1,700 and £702 respectively. It also carried out credit and identity checks.

Mr V's first loan was for £100 and he had to repay £126. I think the checks MYJAR carried out before loan one were proportionate, given the amount of the repayment. Based on the information it gathered, the loan appeared to be affordable.

I've come to the same conclusion about loan two. Before loan two, MYJAR recorded that Mr K's income was £2,200 and some of his living costs and financial commitments as £770. Mr K wanted to borrow £450 and the initial monthly repayment was £136. So, it appeared that Mr K could afford to repay loan two.

I think the position changed when Mr K asked for loan three. He wanted to borrow £700, which was significantly more than he'd borrowed before. The initial repayment was £363 and he was still repaying loan two. The monthly repayments for loans two and three amounted to almost £500. That was quite a big part of Mr K's declared monthly income. I think MYJAR should've had some concerns about how Mr K could repay loan three.

I think proportionate checks before loan three should've established a much fuller picture of Mr K's financial position. I think proportionate checks here would've meant that Lending Stream took steps to verify the information Mr S provided about his financial situation. MYJAR didn't need to ask Mr K for his bank statements. It could have asked Mr K for other evidence of income and expenses, like payslips or copies of bills.

As MYJAR doesn't appear to have carried out proportionate and sufficient checks before loan three, I can't say for sure what it would've found out had it taken steps to verify Mr K's true situation. Mr K has provided us with evidence of his financial circumstances at the time he applied for loan three. So I've been able to get a picture of what his financial circumstances were like. MYJAR is right to point out that looking at Mr K's bank statements now isn't perfect. Different checks show different things. And just because something shows up in the information Mr S has now provided, it doesn't mean that it would've shown up in any checks that MYJAR might've carried out. But the information Mr K has provided is the best indication I have of what his financial circumstances were at the relevant time. In the absence of anything else, I think it's reasonable to rely on it.

I can see from the information Mr K has provided that, at the time of loan three, he had significant borrowing from other short term lenders. For example, in the month before loan three, he took out loans amounting to more than £1,000 from other short term lenders. He also spent an amount greater than his income on gambling. If MYJAR had carried out proportionate checks, it may well have discovered some or all of this information. I don't think Mr K could afford to repay loan three and proportionate checks would've revealed that. I don't think MYJAR should've given Mr K loan three.

For the reasons I've explained I think, MYJAR should refund to Mr K interest and charges he paid in relation to loan three, less any capital sum outstanding on that loan. As Mr K has been kept out of the use of that money and in line with our usual practice, it should also pay interest on the refund. In addition, it should remove any adverse information about loan three from Mr K's credit file.

my final decision

My final decision is that I uphold Mr K's complaint in part. To put things right, MYJAR Limited should:

1. Refund interest and charges paid by Mr K on loan three, less any capital outstanding on that loan.
2. Pay interest on the refund at 8% simple* per year, from the dates of payment to the date of settlement.
3. Remove any adverse information about loan three from Mr K's credit file.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 14 August 2017.

Louise Povey
ombudsman