

complaint

Mr O complains that BB Credit Ltd (trading as Bongaloans) gave him loans he couldn't afford to repay. He asks that it refunds all interest and charges, with 8% interest.

background

Mr O says he took out 15 loans with Bongaloans between November 2012 and October 2015. He says Bongaloans didn't check his finances and circumstances before lending to him. If it had, it would have seen he had multiple loans, credit cards and an overdraft. He had to take out loans to pay existing debts. It wasn't sympathetic when he couldn't repay the loans.

The adjudicator recommended that the complaint should be upheld. Bongaloans didn't provide evidence of any checks to assess whether the loans were affordable. The first two loans were for £100 and Mr O said his net monthly income was £1,000. The adjudicator said given the size of the loans relative to Mr O's income, she'd give Bongaloans the benefit of the doubt that it carried out proportionate checks. After this, it was clear from the pattern of Mr O's repayments that he was in financial difficulties. His credit report shows other loans and financial commitments. His bank statements show he was struggling to stay within his agreed overdraft and had borrowed from other payday lenders. Had Bongaloans carried out checks, it would have seen that the loans weren't affordable.

The adjudicator recommended that Bongaloans refunds interest and charges on the loan taken out in January 2013 and all later loans, with interest at 8%, and remove the loans from Mr O's credit files. She explained to Mr O that Bongaloans is in liquidation and the amount that is actually paid to Mr O will be a matter for the liquidator to determine.

After looking at this complaint, I came to a different conclusion to the adjudicator. The adjudicator wrote to the liquidator to say that I thought Bongaloans should refund interest and charges on all the loans and my decision would be along those lines. I've explained why below. Bongaloans and the liquidator didn't respond. However, the liquidator has let this service know that it's unlikely there will be money available for a distribution.

my findings

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

Bongaloans didn't respond to the adjudicator's view or requests for information. Its response to Mr O says it did a credit check when it processed his application, but it hasn't provided the results of the search.

Mr O's bank statements show he'd taken out loans with at least 10 other payday lenders before applying to Bongaloans. If Bongaloans did a credit check it's likely this showed a pattern of borrowing that should have alerted it to a possible problem. This should have prompted Bongaloans to ask further questions about Mr O's income and expenditure before offering him a loan.

Mr O's bank statements show he paid over £1,200 to payday lenders and spent over £2,000 on gambling in September 2012. His bank statements show income of about £1,950 in

September 2012. He paid £700 to payday lenders and spent £800 on gambling in the first 10 days of October 2012. He incurred unplanned overdraft fees.

Had Bongaloans looked more closely at Mr O's circumstances, I think it would have seen that further borrowing wasn't affordable or sustainable. I agree with the adjudicator that Bongaloans should have been aware of Mr O's financial difficulties and, if it had made proper checks, would have seen the later loans were not affordable.

I think it's fair and reasonable that Bongaloans refunds any interest and charges applied to all of the loans, with interest at 8% simple per year. It should deduct the refund from any capital outstanding and pay Mr O any balance.

If an unpaid balance remains after the refund, Mr O should repay this as he's had use of the money. If his financial circumstances make this difficult, he should contact Bongaloans about agreeing a suitable repayment plan. Once repaid, Bongaloans should remove information about the loans from Mr O's credit file.

While I've set out the redress that I think is fair and reasonable, the amount that is actually paid to Mr O will be a matter for the liquidator to determine. As Bongaloans is in liquidation, there might be difficulties in making the required changes to Mr O's credit files. Mr O may need to contact the credit reference agencies directly about this.

my final decision

My decision is that I uphold this complaint. I order BB Credit Ltd to:

- refund all interest and charges applied to all the loans 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
- once repaid, remove information about the loans from Mr O's credit files.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 27 October 2016.

Ruth Stevenson
ombudsman