

complaint

Mrs S complains about payday loans she took out with WDFC UK Limited (trading as Wonga) which she says Wonga shouldn't have given her because the loans weren't affordable.

background

A summary of Mrs S's borrowing history is as follows;

| loan number | loan amount | received date | actual repayment date |
|-------------|-------------|---------------|-----------------------|
| 1 | £300 | 11/01/2014 | 17/01/2014 |
| 2 | £400 | 29/01/2014 | 15/02/2014 |
| 3 | £400 | 24/03/2014 | 15/04/2014 |
| 4 | £400 | 22/04/2014 | 10/05/2014 |
| 5 | £400 | 20/05/2014 | 07/06/2014 |
| 6 | £400 | 14/06/2014 | 28/06/2014 |
| 7 | £400 | 06/07/2014 | 01/08/2014 |
| 8 | £400 | 16/08/2014 | 30/08/2014 |
| 9 | £400 | 13/09/2014 | 26/09/2014 |
| 10 | £299 | 13/10/2014 | 24/10/2014 |
| | £101 | 13/10/2014 | |
| 11 | £400 | 12/03/2015 | 26/03/2015 |
| 12 | £1,000 | 31/03/2015 | 24/04/2015 |
| 13 | £500 | 30/04/2015 | 23/05/2015 |
| 14 | £1,000 | 04/01/2016 | 26/01/2016 |
| 15* | £1,500 | 27/01/2016 | |

*Wonga has told us that the final loan was an instalment loan and Mrs S had to make three monthly repayments of £755.46.

Mrs S had some problems repaying her final loan. To help Mrs S repay her loan, Wonga agreed a repayment plan and froze interest and charges on the account from April 2016.

An adjudicator looked at Mrs S's complaint and felt the checks carried out by Wonga on the first two loans went far enough. And although the checks Wonga carried out for the third loan didn't go far enough, he felt had proportionate checks been carried out, Wonga would've still give Mrs S the loan. But the adjudicator didn't think Wonga would've given Mrs S the remaining loans (except for loan 14) had it carried out sufficient checks.

Wonga didn't agree with the adjudicator's recommendation. In response it made the following points, including;

- there is nothing to suggest that these loans forced Mrs S into a cycle of dependency,
- Mrs S had an excellent repayment history so there were no grounds to carry out further checks,
- Mrs S didn't tell Wonga that she was having financial difficulties and
- Wonga wasn't aware that Mrs S was gambling.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. And having done so I think Mrs S's complaint should be partly upheld, and I've explained my reasons below.

Wonga had to gather enough information to be able to make an informed decision as to whether it was going to lend. The guidance and rules don't set out what checks must be done before lending is approved. But Wonga needed to conduct enough checks to make sure the loan was affordable for Mrs S. And these checks needed to be proportionate to a number of things such as the size of the loan and when the loan was due to be repaid.

But even if the checks Wonga carried out weren't proportionate, that alone doesn't mean Mrs S's complaint should be upheld. I say this because, it's possible, that had further checks been carried out by Wonga, these could've shown Mrs S was able to repay her loans. So Wonga wouldn't have been wrong to lend her the money.

Wonga says it carried out credit and affordability checks on each loan which included asking Mrs S to consider how she could repay the loans. Wonga says it was also entitled to rely on the information it gathered from the credit reference agencies as well as the information provided by Mrs S about her earnings. Wonga's checks also considered Mrs S's '*outstanding debt*'. All of this information would then be entered into Wonga's underwriting system to enable it to carry out an affordability assessment.

So Wonga says that based on the information it gathered about Mrs S, it was reasonable to lend to her. But I've thought about what Wonga says and Mrs S's circumstances at the time each loan was approved. And having done so, I don't think the checks Wonga carried out were proportionate for most of the borrowing.

Loans 1 and 2

The amount that Mrs S was asking to borrow was relatively modest compared to what she told Wonga she was earning, and based on what she told Wonga the loans appeared affordable. So given this was Mrs S's first loans, and Wonga was entitled to rely on the information she had given it, I don't think Wonga was wrong to lend to Mrs S.

Loan 3

This was Mrs S's third loan in as many months, so although the amount she was borrowing wasn't increasing, I think Wonga needed to do more than just ask about her income. Wonga says it would've asked for details of Mrs S's regular outgoings and other financial commitments. But it hasn't been able to show me the answers Mrs S gave to these questions – so I can't be sure that she was able to sustainably repay her loan. Overall, I don't think the checks for this loan went far enough.

I've considered what Mrs S has told us, and I've reviewed her bank statements to understand what her living costs and regular financial commitments were at the time. And had Wonga found out about these, I think it's likely it would've seen that Mrs S had enough disposable income to be able to sustainably repay her loans. So Wonga would've most likely felt the loan was affordable and it would've most likely lent her the money.

Loan 4

By now it was clear that Mrs S was becoming a regular borrower, as she'd borrowed in each of the last four months. Wonga says it took details of her income, carried out a credit search and asked her questions about her living costs. But I don't think these checks went far enough. Wonga should've been asking Mrs S some questions about her commitments to other short term lenders.

Had Wonga carried out proportionate checks it would've most likely seen that at the time of giving Mrs S this loan, she owed other short term creditors a significant amount of money. And this together with her living costs and other financial commitments meant she wasn't in a position to sustainably repay her loan. And as a responsible lender, Wonga wouldn't have given her the loan.

Loan 5 – 13

Given Mrs S's loan history I think a proportionate check would've required Wonga to verifying the information Mrs S was given it about her income and expenditure. It could've done this a number of ways, such as for asking for evidence of Mrs S income and outgoings. Or it could've asked to see her bank statements, as I've done here. The bank statements are the best indication of Mrs S's ability to afford the loans at the time, so I don't think it's wrong to rely on these.

Having looked at Mrs S's bank statements throughout this period of borrowing, I don't think she had the ability to repay these loans. While the monthly income Wonga has recorded is broadly correct it's clear from the statements that Mrs S was becoming reliant on payday loans. When Wonga approved these loans Mrs S was regularly spending more than her income each month – with some amount going on repaying other short term lenders. And Wonga would've also seen that the majority of Mrs S's income went on gambling. And I think that had Wonga undertaken proportionate checks this would've been brought to its attention and it wouldn't have lent to Mrs S.

Loan 14

There is a gap between loans 13 and 14 so I think Wonga was entitled to start Mrs S's checks afresh. So I don't think it needed to do the same full review as it had done for the last loan, some seven months before. And I think the checks carried out on this loan went far enough.

I can see from the information Wonga has given me that for this loan it took details of Mrs S's income (which had increase since she drew down her last loan) as well as some details about her regular expenditure such as housing costs and utilities bills. This showed Wonga that the loan was affordable – so I don't think it was wrong of it to lend to Mrs S.

I appreciate Mrs S says at the time that she had a number of outstanding payday loans, and I can see these on her bank statements. But I don't think Wonga would've been aware of these by carrying out what I'd consider to be a proportionate check.

Loan 15

This was Mrs S's only instalment loan, but I don't think the checks carried out by Wonga went far enough. It again took details of Mrs S's income and some details about her living costs, and regular financial commitments. But given the size of the loan repayments – which needed to be made over a three month period, I think Wonga needed to have asked Mrs S some further questions about her outstanding short term credit commitments.

I've taken a look at Mrs S's bank statements as one way of finding out what her outstanding commitments were. And having done so, I can see that Mrs S owed other short term creditors over £4,000, which taken together with her declared living costs didn't leave her enough disposable income to be able to sustainably repay what she owed. And had Wonga been aware of this, it wouldn't have given the loan.

I understand Mrs S is unhappy because she feels Wonga was playing for time during the adjudicator's investigation. I can appreciate Mrs S's frustration, but Wonga was entitled to provide further information and comments that the adjudicator was required to consider. So I won't be asking Wonga to pay any compensation for this.

what Wonga should do to put things right

To put things right for Mrs S, Wonga should:

- refund all the interest and charges paid by Mrs S on loans 4 to 13 and 15,
- add interest at 8% per year simple on the above interest and charges from the date they were paid to the date of settlement †;
- I understand Mrs S still owes Wonga some money on her last loan. I think it's fair that it should be allowed to deduct any principal sum outstanding from the final compensation it pays to her.
- remove any adverse information recorded on Mrs S's credit file because of these loans.

†HM Revenue & Customs requires Wonga to take off tax from this interest. Wonga must give Mrs S a certificate showing how much tax it's taken off if she asks for one.

my final decision

For the reasons given above, I'm partly upholding Mrs S's complaint.

WDFC UK Limited should put things right for Mrs S as set out above.

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

Robert Walker
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