

complaint

Mr M complains that MYJAR Limited gave him an unaffordable instalment loan. He wants it to refund his interest and charges and remove the loan from his credit file.

background

Mr M had one loan from MYJAR in August 2017. He said the loan was unaffordable and shouldn't have been provided. MYJAR said it had carried out the required affordability and sustainability checks. It said these were appropriate and proportionate.

Our adjudicator recommended that the complaint should be upheld. She thought MYJAR's affordability checks hadn't gone far enough. She thought that if it had made better checks then it would have seen that Mr M couldn't afford his loan repayments. So she thought it was wrong to approve the loan. She thought MYJAR should refund Mr M's interest and charges, with interest, and offset this against the principal he still owed. And she thought it should remove any related adverse information from his credit file.

MYJAR replied that it thought its affordability checks had been appropriate for a first loan. It said it had asked Mr M about his existing credit commitments.

my findings

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

Mr M's one loan was for £3,600. This was to be repaid over 12 months. The highest expected monthly instalment was £569.78. Mr M was unable to repay the loan and MYJAR froze the interest and charges. A balance remains outstanding. Mr M is currently in a debt management plan.

MYJAR was required to lend responsibly. It should have made checks to make sure Mr M could afford to repay the loan before it lent to him. Those checks needed to be proportionate to things such as the amount Mr M was borrowing, and his lending history. But there was no set list of checks MYJAR had to do.

MYJAR said it asked Mr M for his monthly income. He said this was £3,000. And it said it asked him for his outgoings for rent and credit commitments. It also carried out various credit checks.

I agree with the adjudicator that these checks didn't go far enough. Although this was Mr M's first loan, the amount he borrowed was considerable. The expected repayments consumed a large amount of his monthly income and he had to sustain these repayments over 12 months.

I would expect MYJAR to also ask Mr M for details about his normal living costs and his regular and short-term financial commitments to check that he could afford this loan. I can see that MYJAR asked Mr M about his credit commitments, but it didn't directly ask him about other short-term loans. So I don't think its affordability checks were proportionate or sufficient.

I've looked at Mr M's bank statements from the time to get information about his expenditure, but MYJAR could easily have asked Mr M for it. From these, I can see that Mr M's normal living costs and regular bills totalled around £1,140 a month. But he also had outstanding balances for other short-term loans. These totalled around £4,700.

So I think that if MYJAR had made proportionate and sufficient checks, it would have found, as I have, that Mr M didn't have any disposable income to repay his loan. And so I think it was wrong to approve it.

my final decision

My final decision is that I uphold this complaint. I require MYJAR Limited to do the following:

1. Refund Mr M the interest and charges he paid, adding interest at 8% simple per annum from the date of payment to the date of settlement. This refund should be offset against the principal still owed and the rest paid to Mr M. Or if a balance remains outstanding, an affordable repayment plan should be agreed.
2. HM Revenue & Customs requires MYJAR to withhold income tax from that interest. It must give Mr M a certificate showing how much it's taken off if he asks for one.
3. Remove any adverse information relating to this loan from Mr M's credit file if the remaining balance is repaid within three months of this complaint being settled.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 25 October 2018.

Phillip Berechree
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