

complaint

Mr T complains that Global Kapital Finance Limited (trading as MyKredit) made short-term loans to him when it shouldn't have.

background

Between May 2017 and February 2018, MyKredit made six loans to Mr T. Each loan was for £200.00 repayable by instalments – sometimes two instalments, sometimes four. Mr T repaid the first five loans but not the sixth. He complained that none of them had been affordable for him.

Our adjudicator recommended that the complaint should be upheld in part. He didn't think that MyKredit should've given Mr T any of the loans it gave him. The adjudicator recommended that MyKredit should:

1. refund all interest and charges that Mr T paid on the all the loans;
2. remove any interest and charges from the outstanding balance;
3. pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
4. remove any negative information about loan one to six from Mr T's credit file;
5. it is allowed to offset any redress against any amount correctly outstanding if it's fair to do so;
6. pay any amount remaining to the consumer;
7. it can expect the consumer to repay any remaining balance after the redress is deducted. But if the consumer is in financial difficulty, we'd expect the lender to treat them positively and sympathetically;
8. to remove any adverse information about the settled loan(s) from the consumer's credit file once the offset has been applied.

*HM Revenue & Customs requires MyKredit to take off tax from this interest. MyKredit must give Mr T a certificate showing how much tax it's taken off if he asks for one. If MyKredit intends to apply the refund to reduce any outstanding capital balance, it must do so after deducting the tax.

MyKredit disagreed with the adjudicator's opinion in part. It says, in summary, that its loans helped Mr T during the hard time he was going through. It offered to waive the £200.00 interest on the last loan and only ask for the remaining £130.00 to be repaid in up to ten instalments.

Mr T agrees with the adjudicator's opinion. But he says MyKredit sent him unprofessional correspondence and caused him to have time off work with stress.

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 T, MyKredit had to check each time that he could afford to repay the loan. Affordability checks should be proportionate. What's proportionate depends on things like – but not limited to – the size of the loan repayments and the information MyKredit had about Mr T.

From its records, the MyKredit loans to Mr T were as follows:

loan No	loan date	loan amount (£)	date loan repaid
1	30.05.17	200	02.06.17
2	12.06.17	200	28.06.17
3	28.06.17	200	29.06.17
4	03.07.17	200	28.07.17
5	31.10.17	200	28.11.17
6	28.02.18	200	not yet

MyKredit has told us that it did credit searches. But it hasn't shown us the results of those searches. And I don't think such searches could've provided enough positive evidence of future affordability.

We don't usually say, in relation to small loans early on in a chain of loans, that a short-term lender should ask a borrower for copies of bank statements.

But before each of its loans MyKredit did ask Mr T for copies of bank statements. And Mr T provided them. So I would've expected MyKredit to look at the bank statements and to make a reasonable assessment of affordability from them.

Loan 1 was going to require four repayments of about £95.00.

MyKredit would've seen that Mr T's monthly income was about £2,270.00. I think MyKredit should've seen that Mr T had regular monthly financial commitments of about £700.00. That would've left him monthly disposable income of about £1,570.00 from which to pay his other normal living costs – and the repayments on its loan 1.

But MyKredit should've also seen that - in the month before its loan 1 - Mr T had already taken other short- term loans totalling over £1,300.00. He was going to have to repay them with heavy interest.

Loan 2 was going to require two repayments of about £123.00. MyKredit would've seen that Mr T's monthly income was down to about £1,617.00. His regular financial commitments were up to about £1,057.00. And he still had many other short- term financial commitments.

I've also looked at the bank statements for loans 3 to 6. And I don't think Mr T's financial circumstances had improved.

So – with the information it had about him – I think MyKredit should've seen that Mr T wouldn't have enough disposable income to cover his monthly living costs, regular financial

commitments and the repayments on its loans. I think MyKredit should've seen that Mr T wasn't going to be able to afford repayment of its loans in a sustainable way – that is to say without further short-term borrowing.

I don't think MyKredit should've made any of its loans to Mr T. But it did make those loans. And it debited Mr T's accounts with interest on them. Therefore I find it fair and reasonable to order MyKredit to credit Mr T with each such amount of interest and any charges.

The records show that – because he repaid them early - Mr T paid interest on loans 1 to 5 totalling only about £109.00. I will order MyKredit to add interest at our usual rate on each amount of interest and charges that Mr T paid.

Like the other loans, loan 6 was for the principal sum of £200.00.

Mr T contacted MyKredit and said he was in financial difficulties at the end of March. I see that MyKredit set up a series of repayment arrangements. So I'm satisfied that it treated Mr T positively and sympathetically.

MyKredit says there's a principal balance outstanding of £130.00. Mr T hasn't disputed that. So I think that – of the £200.00 he borrowed on loan 6 – he's only repaid £70.00. Mr T had the benefit of the £200.00 he borrowed. So I don't find it fair and reasonable to order MyKredit to write off any of it.

Rather I will allow MyKredit to apply its refund (of about £109.00 plus interest) first towards settling the principal balance on loan 6 (£130.00) before paying Mr T any remaining refund.

At one stage MyKredit said it was passing the debt to a collection agency. I don't doubt that caused Mr T some upset. But – keeping in mind the principal balance on loan 6 - I don't find it unreasonable that MyKredit said it would instruct a collection agency. And I haven't seen enough evidence that it caused Mr T medical harm or his loss of income for emergency time off work.

MyKredit's "final answer" didn't fulfil the requirement to tell Mr T of his right to bring his complaint to us. But he did bring his complaint to us without delay so I don't think he suffered any detriment from MyKredit's omission.

Overall, I find it fair enough to order MyKredit to credit Mr T's account with each amount of interest and any charges that it debited – and to add interest at our usual rate on each such amount that Mr T paid.

As I don't think it should've made the loans, I will also order MyKredit to remove from Mr T's credit file any adverse information relating to them.

my final decision

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct Global Kapital Finance Limited (trading as MyKredit) to (in relation to its loans to Mr T on and after 30 May 2017):

1. credit Mr T's account with each amount of interest and charges that it debited;

2. add simple interest at a yearly rate of 8% on each such amount of interest and charges that Mr T paid from the date he paid it to the date MyKredit refunds it. If MyKredit considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr T how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate; and
3. remove adverse information from Mr T's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 27 December 2018.

Christopher Gilbert
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