

complaint

Mr B complains that MEM Consumer Finance Limited (trading as Payday UK) didn't carry out proper affordability checks and irresponsibly granted him unaffordable payday loans. He wants the charges and interest refunded and his credit file amended.

background

Payday UK said in its final response that Mr B applied for the first loan in February 2013. He confirmed personal information and it carried out external credit and identity checks. The loan for £150 was agreed. It was paid off. After this seven loans were agreed with one deferral. It assisted Mr B when he said he was in difficulty and the loans were repaid. It carried out appropriate checks and assessed the loans' affordability. The applications met its lending criteria and were affordable. It relied on the information Mr B provided.

Our adjudicator felt this complaint should be upheld. He said:

- Payday UK carried out a credit check on the first loan but didn't ask about Mr B's income. His second loan took up over a quarter of his income. Payday UK should've realised there was an affordability issue when Mr B took out the third loan. By then a pattern of sequential borrowing was developing. It also represented about third of his income. It should've carried out further affordability checks like looking at his bank statements.
- Had it done so it would've seen he was borrowing from a number of payday lenders and most of Mr B's income was being spent on those loans or gambling. His expenditure far exceeded his income. There were some gaps between Mr B's later borrowings but it should've carried out more checks before giving them. And Mr B's circumstances don't appear to have changed when he asked for these loans. So, Payday UK shouldn't have lent to him again.
- So, Payday UK should refund all interest and charges on all loans from April 2013 onwards plus pay interest. It should also remove adverse information about these loans from his credit file

Payday UK doesn't agree. In summary it says its checks were adequate. There were significant gaps in the later borrowing. All the loans were affordable.

my findings

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

I agree with the adjudicator's conclusions for the same reasons.

Payday UK was entitled to rely on the information Mr B gave. It says it would've carried out various internal and external checks including with credit reference agencies.

Whatever level of checks Payday UK carried out at the time of each loan application I think the Mr B's borrowing history including should've quickly alerted it to the fact that he may have been in some financial difficulty, the loans may have been unaffordable and particularly that he was becoming reliant on short term lending.

At very least Payday UK should've reasonably asked more questions when he asked for the third loan. But it wasn't obliged to ask to see his bank statements. Even so, if it'd asked more or carried out further checks I think Mr B's financial problems and personal issues would've likely become apparent. And Payday UK would've likely declined to grant the later loans.

Taking everything into account I think the adjudicator's proposed resolution of this complaint is fair and reasonable. And I don't see any reason to change the proposed outcome in this case.

If Payday UK considers that it's required by HM Revenue & Customs to withhold income tax from the interest I award, it should tell Mr B how much it's taken off. It should also give Mr B a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

my final decision

I uphold this complaint and I require MEM Consumer Finance Limited (trading as Payday UK):

1. To refund all interest and charges on all loans from April 2013 onwards plus pay simple interest at the rate of 8% a year from the date each such sum was paid until the date of settlement; and
2. To remove adverse information about all loans from April 2013 from Mr B's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 30 January 2017.

Stephen Cooper
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