

complaint

Mrs M complains that Active Securities Limited (trading as 247 Moneybox) gave her payday loans without making proper checks that they were affordable for her. She wants reimbursement of the interest and charges she paid, with interest, and her debt waived.

background

Mrs M had three payday loans from 247 in 2012. 247 said it carried out checks that they were affordable. But if offered to waive the outstanding balance, to return £22 interest and to remove any defaults from Mrs M's credit file.

Our adjudicator recommended that the complaint should be upheld. He thought that 247's checks on affordability would have shown that Mrs M was dependent on payday loans. He thought it shouldn't have lent to her. So he thought it should refund the interest and charges she paid, with interest, and remove the loans from Mrs M's credit file. If this refund was less than what Mrs M still owed, he thought 247 should waive the balance.

247 didn't rely to the adjudicator's view, so the complaint has come to me for a final decision.

my findings

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

Mrs M had three payday loans of £120, £195 and then £270. They were borrowed back to back. She repaid the first two loans but couldn't repay the last one. It's still on hold.

Lenders are obliged to make sufficient and proportionate checks to make sure that loan repayments are affordable without undue hardship.

247 said Mrs M told it her monthly net income was £850. It told us that this was Mrs M's disposable income after essential bills were deducted. But I don't think this is the question it asked Mrs M and I think this was her actual monthly net salary. 247 checked Mrs M's employment. This check showed her actual net monthly pay was £850, so I think it should have noticed this.

247 also conducted a credit file check. This showed that at the time of her first loan, Mrs M had 20 active accounts. She had seven accounts with home credit companies. She had to pay back £1,703 each month for these accounts. This is clearly double her monthly income.

I agree with the adjudicator that 247's own checks should have shown that Mrs M wouldn't be able to repay her loan. But it lent to her anyway without making further checks on her circumstances.

But we expect a lender to be alert to any warning signs of financial difficulties that might trigger concerns about a dependency on payday lending or that further checks were needed. 247 had her credit file, but it could also have asked to see Mrs M's bank statements, for example.

Mrs M has provided these from the time. These show that she had even more loans than showed on her credit file. So I think that if 247 had made further checks it would have seen, as I have, that Mrs M was dependent on payday loans. And so it would have declined to offer her any loans. I think all its lending to Mrs M was irresponsible.

247 offered to waive the outstanding balance that Mrs M owes for her loans and to return £22 interest she paid on her last loan. Our approach is that it should refund her all the interest and charges she paid, with interest. This refund can then be offset against the principal Mrs M still owes and, as it has been offered, any outstanding balance should be waived. 247 should also remove any related adverse information from Mrs M's credit file.

my final decision

My final decision is that I uphold this complaint. I require Active Securities Limited (trading as 247 Moneybox) to do the following:

1. Refund Mrs M the interest and charges she paid on all her loans, adding interest at 8% simple per annum from the date of payment to the date of settlement.
2. If 247 considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mrs M how much it's taken off. It should also give Mrs M a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.
3. This refund should be offset against the principal Mrs M still owes for her last loan. If there is a balance still owing, this should be waived, as 247 has offered.
4. Remove any adverse information relating to these loans from Mrs M's credit file.

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

Phillip Berechree
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