

complaint

Miss P has complained about short-term loans granted to her by MEM Consumer Finance Limited trading as Payday UK ("Payday UK" or "the lender").

background

Payday UK agreed six loans for Miss P – three in the period September to December 2007 and three in the period January to March 2010. Miss P says these loans were unaffordable for her and Payday UK should have known this and not agreed them.

Payday UK says that it should have carried out more comprehensive affordability checks for all but the first loan. So it's offered to refund the interest and charges Miss P paid from her second loan onwards and to remove any negative information about these from her credit file.

One of our adjudicators has looked into Miss P's complaint already. He didn't think it should be upheld in relation to her first loan and so felt that Payday UK's offer was fair. Miss P did not accept this offer and asked for her complaint to come to an ombudsman for review and final decision.

Payday UK has offered to do what I would ask of it, were I to uphold Miss P's complaint in relation to her last five loans. So I will not consider these further.

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 have also taken into account the law, any relevant regulatory rules and good industry practice at the time.

Miss P first applied for credit with Payday UK in September 2007. The loan was for £275 and Miss P needed to repay £344¹ including interest. Payday UK doesn't hold a record of Miss P's application information, which is understandable given the length of time that has passed. But the lender says that its decision would have been based on "*income and personal information*" gathered at the time.

Miss P told us her income was £1,750 and her living costs came to just over £1,300 excluding debt repayments. She explained that she borrowed from several other payday loan companies during the time she borrowed from Payday UK and entered into a formal repayment plan with her lenders (an Individual Voluntary Arrangement). But I don't think Payday UK would have or should have known about this in September 2007 – my understanding is that Miss P's borrowing from other payday lenders and her IVA happened several years later.

Miss P may have had other existing debt at the time – she says that she had debts which would have been visible on a credit report. However, Payday UK hasn't said that it carried out a credit check in 2007. It wasn't obligated to do so either then or now, and so I can't say it did anything wrong in this regard.

¹ All figures rounded to the nearest pound.

Altogether, I haven't seen enough to say that Payday UK shouldn't have lent to Miss P on this occasion. I appreciate that Miss P's financial situation may not have been easy for her – she's explained that she had debt problems and feels the payday loans she took out *"trapped her into a debt spiral"*. However, I can't say that Payday UK would or should have known enough about her situation to decline her loan application. So I am not going to ask it to do anything further than it has already offered to do.

As mentioned above, Payday UK has offered to refund the interest Miss P paid for her second and third loans granted in 2007 and all three loans granted in 2010. So, in order to resolve this complaint, Payday UK:

- should refund all interest and charges for Miss P's loans taken out in November and December 2007 and January, February and March of 2010.
- should pay interest on these refunds at 8% simple* per year from the dates of payment to the dates of settlement.
- remove any adverse information about all five loans from Miss P's credit file.

*HM Revenue & Customs requires Payday UK to take off tax from this interest. Payday UK must give Miss P a certificate showing how much tax it's taken off if she asks for one.

my final decision

For the reasons set out above, I uphold this complaint in part and direct MEM Consumer Finance Limited to put things right for Miss P as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 8 January 2018.

Michelle Boundy
ombudsman