

## **complaint**

Mrs G complains that MEM Consumer Finance Limited (trading as Payday UK) lent her money she couldn't afford to repay. She says if Payday had carried out proper checks it would have seen this, so it acted irresponsibly when it lent to her.

## **background**

I issued a provisional decision on this complaint in October. In that I said I was minded to uphold this complaint in full. A copy is attached and forms part of this 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 G has told us she's happy with my provisional decision. Payday hasn't sent us any new information. I can't see any reason why I should change my provisional decision.

## **my final decision**

My decision is that I uphold this complaint. MEM Consumer Finance Limited should refund any interest and charges paid the loans she took out between August 2011 and February 2015. It should also

- add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement. \*
- remove any adverse information recorded on Mrs G's credit file in relation to the loans I am asking to be refunded.

\*HM Revenue & Customs requires MEM Consumer Finance Limited to take off tax from this interest. MEM Consumer Finance Limited must give Mrs G a certificate showing how much tax it's taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 15 December 2017.

Sue Peters  
**ombudsman**

## Copy of Provisional decision issued October 2017

**complaint**

Mrs G complains that MEM Consumer Finance Limited (trading as Payday UK) lent her money she couldn't afford to repay. She says if Payday had carried out proper checks it would have seen this, so it acted irresponsibly when it lent to her.

**background**

Mrs G took out 8 loans with Payday between 2011 and 2015.

Loan	Date	Amount (£)	Interest (£)	Maximum amount due in a month (£)	Deferred?	Repaid
1	1/8/2011	500	225.00	600	y	16/9/2011
2	21/9/2011	530	132.50	662.50	y	18/11/2011
3	19/12/2011	530	265.00	662.50	y	5/4/2012
4	6/4/2012	530	397.50	662.50	y	18/6/2012
5	29/6/2012	500	125.00	625.00	n	18/7/2012
6	18/12/2014	350	81.20	431.20	n	16/01/2015
7	19/1/2015	440	105.60	545.60	n	18/02/2015
8	21/2/2015	530	137.49	354.39	n	1/4/2015

Our adjudicator thought Payday hadn't carried out sufficient checks before giving Mrs G any loans except loan one. He recommended it refund interest and charges on all loans from September 2011 onwards. Payday offered to refund loans six to eight, but Mrs G isn't happy with that, so I've been asked to look at the complaint again.

**my provisional findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done that, I've come to a different set of conclusions than our adjudicator did.

Mrs G borrowed from Payday in two distinct time periods – 2011 to 2012 and 2014 to 2015. There was a gap of over two years between loans 5 and 6. Mrs G's circumstances could have changed substantially during this period, so I'm going to look at each period separately.

Each time Payday lent to Mrs G it should have checked that she could afford to repay the loan. There's no set list of the checks Payday had to carry out – it simply had to be proportionate. I'd expect Payday to consider things like how much Mrs G was borrowing and how often, her income and expenditure and what it knew about her.

Payday says it carried out several credit checks – in 2011 and 2014. But it hasn't told us the result of these checks so I don't know whether these should have influenced its decision to lend.

*loan one*

When Mrs G approached Payday for her first loan it recorded her income as £1500. That's the only information it recorded. This first loan was for a substantial amount, and the repayments were for more than a third of her wages. So, unlike our adjudicator, I think Payday should have made some additional enquiries before it lent. If it had done that, I think Mrs G would most likely have told Payday about her regular financial commitments of about £570, and that she had some short term lending too, which required repayment of £270 during the previous month. She was due to pay substantially more than this to other short term lenders during August – about £1,300. That left her with little or no money for normal living costs before she repaid Payday: it appears the only reason Mrs G could repay Payday was that she borrowed from other lenders. I got that information from Mrs G's bank statements for the months immediately before and after she applied for the loan, but Payday could easily have asked for this information at the time.

I don't think Payday should have given Mrs G loan one.

*loans two to five*

If Payday had carried out proportionate checks for loan one, it wouldn't have given her that loan. And if Mrs G had then applied again, Payday would have been on notice that she might not be able to afford further loans. So I think it should have carried out a full financial review before lending to Mrs G, and asked her to provide some supporting evidence such as bank statements. If it had done that it would have seen that Mrs G had little or no disposable income, that she was borrowing from other short term lenders and gambling. I don't think

Payday should have given Mrs G any of these loans.

*loans six to eight*

There was a long gap between loans five and loan six – over two years. So it's understandable that Payday treated Mrs G as a new borrower, as her circumstances could have changed. As she'd not approached Payday for a loan for a long time, her situation might have improved.

Payday recorded Mrs G's income for loan six as £1550 and her expenditure – including regular financial commitments – as £1050. That left her with £500, and she needed to pay £431 to clear Payday's loan. I don't think, based on that information, she had enough left to meet any unforeseen costs, so I don't think the loan was affordable.

That pattern is repeated for the next two loans. Payday has offered to refund interest and charges on the last two. I'm not going to say much more about these, other than that I think proportionate checks would have shown she couldn't afford them.

**my provisional decision**

My provisional decision is that I intend to uphold this complaint, and ask Payday to refund interest and charges on all of Mrs G's loans taken between August 2011 and February 2015. I'll also ask it to add interest at 8% per annum from the date of payment to the date of refund on any compensation. HMRC requires Mrs G to pay tax on this interest, so Payday should give Mrs G a certificate of tax deducted if she asks for one.

I'll also ask Payday to remove any adverse entries for these loans from Mrs G's credit file.

I will take into account any further information provided by either party before I reach a final decision.

Sue Peters  
**ombudsman**