

## **complaint**

Mr C complains that Express Finance (Bromley) Limited (trading as Payday Express) gave him loans he couldn't afford to repay. He asks that it writes off the debt, corrects his credit file and pays compensation.

## **background**

Mr C took two loans from Payday Express in November 2012 and January 2013. He says if proper checks had been done, Payday Express would have seen he'd defaulted on credit card accounts, was in arrears on other debts and had payday loans. It didn't ask about his mental health issues and took advantage of him.

The adjudicator recommended that the complaint should be upheld. He said if Payday Express had carried out suitable checks it would have seen defaults on Mr C's credit file and a pattern of borrowing that suggests financial problems. It wasn't responsible to lend to him. The adjudicator recommended that Payday Express refund all interest and charges, with 8% interest, and remove the loans from Mr C's credit file.

Payday Express didn't provide any information to the adjudicator or respond to his view.

## **my findings**

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

Lenders have to assess whether a loan is affordable using suitable information. Their checks must be proportionate depending, for instance, on the size of the loan, the repayments and what the lender knows about the customer.

Mr C took out a £320 loan in November 2012 and a £300 loan in January 2013. Payday Express hasn't provided information to this service to show it did any checks to assess whether the loans were affordable. If it had done a credit check, it's likely it would have seen that Mr C had defaults on his credit file and a number of payday loans. I think this would have raised concerns about his reliance on short term borrowing and ability to repay further borrowing in a sustainable way. This should have prompted Payday Express to ask for more information about Mr C's circumstances.

Mr C's bank statements show monthly payments to debt collection agents of about £250 and mortgage payments of £290. In October 2012 he made payments of about £1,200 to payday lenders and nearly £2,500 for online gambling. This pattern continued. In December 2012, Mr C's bank statements show he paid £2,800 to payday lenders and spent over £900 on online gambling. Mr C's net monthly income was about £900. If Payday Express had carried out suitable checks, it would have seen that the loans weren't affordable or sustainable.

I think it's fair and reasonable that Payday Express refunds any interest and charges applied to both loans, with interest at 8% simple per year. It should deduct the refund from any capital outstanding and pay Mr C any balance.

If an unpaid balance remains after the refund, Mr C should repay this as he's had use of the money. If his financial circumstances make this difficult, he should contact Payday Express

about agreeing a suitable repayment plan. Once repaid, Payday Express should remove information about the loans from Mr C's credit file.

**my final decision**

My decision is that I uphold this complaint. I order Express Finance (Bromley) Limited to:

- refund all interest and charges applied to the loans plus pay interest at 8% simple per year from the date each sum was paid until the date of settlement. This should be offset against any outstanding capital sum; and
- once repaid, remove information about the loans from Mr C's credit files.

If tax is deducted from the 8% interest awarded, appropriate documentation should be provided to Mr C for HMRC purposes.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 10 October 2016.

Ruth Stevenson  
**ombudsman**