

complaint

Mr S complains that MEM Consumer Finance Limited (trading as Payday UK) gave him loans he couldn't afford to repay. He asks that it refunds interest, plus 8% interest, and removes the loans from his credit files.

background

Mr S took out three loans with Payday UK between March 2012 and June 2013. Repayment of the second loan was deferred for 11 months. Payday UK gave him a third loan the next month, which he rolled over once before entering into a debt management plan. Mr S says he had other loans during this time, including 45 payday loans.

The adjudicator recommended that the complaint should be upheld, saying Payday UK:

- made proportionate checks before the first loan of £100. This was repaid on time.
- shouldn't have let Mr S roll over the second loan 11 times. Guidelines brought in by the Consumer Finance Association in late July 2012 said lenders shouldn't roll over a loan more than three times.
- didn't provide evidence of appropriate affordability checks before the third loan.

The adjudicator recommended that Payday UK refund all interest and charges on the third loan and on the second loan from 20 August 2012 onwards, plus interest at 8%. He said it should remove the third loan from Mr S's credit files. Payday UK didn't respond.

my findings

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

Mr S took out a £100 loan in early March 2012 and a £250 loan in late March 2012. Payday UK says it took into account his net monthly income and did a credit check. Mr S's bank statements suggest his monthly income was between £1,300 and £1,600 in early 2012. Mr S says he started taking out payday loans in March 2012. So it's unlikely the results of a credit check in March 2012 would have suggested reliance on short term borrowing.

Given Mr S's income and the amount of the loans, I think the checks carried out by Payday UK were proportionate. I don't think, based on the information it had, it was unreasonable to assess the loans as affordable.

Mr S rolled over the second loan 11 times. Repeated requests to defer repayment should have alerted Payday UK to a possible problem. It should have asked for more information about Mr S's financial circumstances before it allowed him to roll over the loan for a fifth time, especially as the Consumer Finance Association introduced guidelines about rollovers in July 2012.

Mr S's bank statements in mid 2012 show he'd taken out loans with other payday lenders. He paid over £750 to payday lenders in June 2012. He made a payment to his partner of £750 in June and £900 in July, which he says is his share of the rent and household bills. Mr S made payments to a debt recovery company and had fees for an unauthorised overdraft and unpaid direct debits. Mr S received £1,100 from an instalment lender and £500

from payday lenders in late June and July. Mr S made payments for online gambling of about £400 in June 2012 and about £800 in July 2012.

If Payday UK had looked more closely at Mr S's income and expenditure in August 2012 it would have seen that continuing to roll over the loan wasn't affordable or sustainable.

Mr S repaid the second loan in March 2013. Payday UK gave him a third loan in April 2013. Given the difficulties Mr S had repaying the second loan, I think Payday UK should have asked for more information before offering the third loan. Mr S's bank statements show payments of over £2,250 to payday lenders in March 2013. His net income was £1,825. I don't think further borrowing was affordable.

I think it's fair and reasonable that Payday UK refunds any interest and charges applied to Mr S's loans from (and including) 20 August 2012, with interest at 8% simple per year. It should deduct the refund from any capital outstanding and pay Mr S any balance.

If an unpaid balance remains after the refund, Mr S should repay this as he's had use of the money. If his financial circumstances make this difficult, he should contact Payday UK about agreeing a suitable repayment plan. Payday UK should remove adverse information about the third loan from Mr S's credit file.

my final decision

My decision is that I uphold this complaint. I order MEM Consumer Finance Limited to:

- refund all interest and charges applied to the loans from (and including) 20 August 2012 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
- remove any adverse information about the third loan from Mr S's credit files.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 31 October 2016.

Ruth Stevenson
ombudsman