

complaint

Mr W complains that Instant Cash Loans Limited (trading as “The Money Shop”) shouldn’t have lent him money in April 2013. He says that Instant Cash Loans didn’t do enough to check that he could afford the loan.

background

In April 2013 Mr W took a running account personal loan facility with Instant Cash Loans. This provided him with a credit limit of £460 which he was able to draw down as cash advances (up to that limit). He took an advance of £200 on the day the loan was agreed and around eleven days later – on 17 April - he took a further advance of £100. Mr W was due to repay almost £384 on 30 April. He made a part payment and was due to pay the outstanding balance a few weeks later. As he didn’t, a late fee was applied to his account.

At around that time Mr W entered into a debt management plan. On being informed of this Instant Cash Loans suspended normal collections and no further interest was applied. Mr W then made regular payments through his debt management plan. The outstanding balance was cleared in January 2015.

One of our adjudicators has already looked into Mr W’s complaint. She concluded that the loan had been irresponsibly lent to Mr W. So she recommended that Instant Cash Loans pay him some compensation and remove the entries about Mr W’s loan from his credit file.

Instant Cash Loans hasn’t responded to our adjudicator’s assessment so the case has come to me for a final decision. If Mr W accepts my decision Instant Cash Loans will be legally bound by it.

my 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 so, I uphold it and will explain my reasons.

As part of the loan application process Instant Cash Loans had to check that Mr W could afford to repay the loan. There’s no set list of what a lender should do to check affordability in every case. But checks should be proportionate to things like the size of the loan, the repayments, what the lender knows about the consumer and what the consumer tells the lender about their circumstances.

Instant Cash Loans has provided us with Mr W’s registration form and credit agreement. Through tick boxes these show that Mr W declared his net monthly income as between £1,300 and £1,624. And it shows his monthly credit payments were between £300 and £499. Instant Cash Loans tells us that it carried out a credit check. But it hasn’t provided a copy of what its agent saw at the time. In its response letter to Mr W, Instant Cash Loans said that he also provided wage slips and bank statements. And I can see that the agent appears to have circled “bank statement” as having been seen.

As Instant Cash Loans hasn't provided a copy of the credit report it saw, I don't know what information it provided. But Mr W has provided a recent copy of his credit report and I can see that back in 2013 there were a number of creditors. And Mr W has sent us his bank statements - including those from the month before he took the loan. I think it's likely that these were what were seen by the agent at the store. And I think if they'd been reviewed, Instant Cash Loans would've realised that Mr W was reliant on short term loans and that the one he was now seeking from Instant Cash Loans wasn't affordable.

I say this because I can see that in the month before Mr W asked for the loan from Instant Cash Loans, he took 12 advances from a number of short term lenders. The total he borrowed was in excess of £2,000. And Mr W was making repayments to those lenders and a number of others for earlier loans - as well as paying for the usual living-type expenses.

I mention above that Instant Cash Loans had to carry out proportionate checks - to ensure it was lending responsibly and that the loan was affordable and could be repaid in a sustainable manner. I accept that Mr W may have provided some inaccurate information about his income and expenditure. But in light of the broader circumstances and in particular the information provided by Mr W's bank statements I'm not persuaded that Instant Cash Loans acted responsibly when it agreed to lend Mr W £460 in April 2013. I think it would've been apparent, had Instant Cash Loans checked his bank statements, that Mr W would only be able to repay the loan at the end of the month by arranging additional borrowing.

putting things right

I require Instant Cash Loans Limited to:

- refund to Mr W all interest and charges he paid in respect of the loan he took in 2013. To each of those sums it must add 8% simple interest a year* from the date Mr W paid them to the date the refund is paid to him: and
- remove any adverse entries relating to this loan from Mr W's credit file.

*HM Revenue & Customs requires Instant Cash Loans to take off tax from this interest. Instant Cash Loans must give Mr W a certificate showing how much tax it's taken off if he asks for one.

my final decision

For the reasons outlined above I uphold Mr W's complaint about Instant Cash Loans Limited and require it to pay him fair compensation and remove all adverse entries relating to this loan from Mr W's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 17 October 2016.

EJ Forbes
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