

complaint

Mrs G complains that Express Finance (Bromley) Limited (trading as Payday Express) gave her loans she couldn't afford to repay. She asks that it refunds interest and charges.

background

Mrs G took out loans with Payday Express between May 2012 and January 2013. She says the loans weren't affordable and contributed to her financial problems. The adjudicator recommended that the complaint should be upheld, saying Payday Express should have made further checks before offering the loans to Mrs G. The information provided to the adjudicator suggested Mrs G had taken out four loans with Payday Express. The adjudicator said information from Mrs G suggested she didn't have enough income to meet her usual outgoings and repay the first three loans. As Mrs G didn't provide bank statements, it wasn't clear whether the last loan was affordable.

As I didn't agree with all of the adjudicator's recommendations, I sent provisional decisions to the parties to explain why. Mrs G provided further information about her circumstances when she took out the loans. Payday Express clarified when it had lent to Mrs G and what information it had received about her income and expenditure. In my latest provisional decision, I set out the following provisional findings:

Loan 1 (May 2012)

Payday Express says Mrs G told it her monthly income was £1,700 when she applied for the first loan in May 2012. Given the amount of the loan and Mrs G's income, I think Payday Express should have asked about her normal living expenses and regular financial commitments to assess whether the loan was affordable.

The bank statements Mrs G provided for May 2012 are incomplete. The payments for living expenses and financial commitments shown in the bank statements I have for April and May 2012 don't total an amount that suggests the loan repayment was unaffordable. I don't think I can fairly conclude that, if Payday Express had made further checks, it would have assessed this loan as unaffordable.

Payday Express says it didn't offer Mrs G a new loan in September 2012 and the entry in the account statement was a fifth deferral of the first loan. It provided an updated account statement to support this.

Loan 2 (January 2013)

Payday Express says it gave Mrs G one loan in January 2013 (of £100) followed by a top up loan (of £500) later that day. The loan and top up required a repayment of £774. Payday Express says Mrs G told it her income was £1,700 and provided application details to support this. Its account notes show Mrs G updated her income three times in January 2013. I think, given the amount of the loan, the difficulty Mrs G had repaying the previous loan and the inconsistent information she provided about her income, Payday Express should have made further checks. In the circumstances, I think it should have verified her income and expenditure. While there are different ways of doing this, one is to look at Mrs G's bank statements, as I've done.

Mrs G's monthly income in December 2012 and January 2013 was about £980. While I don't have complete information about Mrs G's expenditure at that time, I think it's likely her monthly living expenses and regular financial commitments were similar to those in

September 2012 (about £680). Mrs G's bank statements show gambling transactions and signs of financial difficulty, such as unpaid direct debits. I think if Payday Express had looked more closely at Mrs G's circumstances it would have seen that further borrowing wasn't affordable or sustainable.

I don't think Payday Express should have offered Mrs G the loan and top up she took out in January 2013. So Express Finance (Bromley) Limited should:

- Refund all interest and charges that Mrs G paid on the loan and top up taken out in January 2013;*
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;*
- Write off any unpaid interest and charges applied to the loan and top up taken out in January 2013, apply the refund to reduce any capital outstanding and pay any balance to Mrs G;*
- Remove any negative information about the loan and top up taken out in January 2013 from Mrs G's credit file.*

**HM Revenue & Customs requires Payday Express to take off tax from this interest. Payday Express must give Mrs G a certificate showing how much tax it's taken off if she asks for one. If Payday Express intends to apply the refund to reduce any outstanding capital balance, it must do so after deducting the tax.*

Payday Express agreed with my provisional decision. Mrs G provided bank statements for March to September 2012.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Loan 1 (May 2012)

For the reasons set out in my provisional decision, I think Payday Express should have asked about Mrs G's normal living expenses and regular financial commitments to assess whether the loan was affordable. Since I issued my provisional decision, Mrs G has provided bank statements and more information about her outgoings when she took out the loan.

Mrs G's bank statements show living expenses in May 2012 of about £1,000, including cash withdrawals and payments for child care. I can see from Mrs G's bank statements that her income was lower than she'd told Payday Express. But I don't think it had reason to question the information she'd provided. And, while Mrs G had short term commitments and made payments to gambling businesses I don't think Payday Express knew this or should have been alerted to the need for further checks. Based on the information Mrs G provided about her income, I think Payday Express would have assessed the loan repayment of £412 as affordable if it had made proportionate checks.

Loan 2 (January 2013)

For the reasons set out in my provisional decision, I don't think Payday Express should have offered Mrs G the loan and top up she took out in January 2013. Payday Express accepted

this and I haven't received any comments or evidence to persuade me to change my findings from those set out on my provisional decision.

my final decision

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

- Refund all interest and charges that Mrs G paid on the loan and top up taken out in January 2013;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
- Write off any unpaid interest and charges applied to the loan and top up taken out in January 2013, apply the refund to reduce any capital outstanding and pay any balance to Mrs G;
- Remove any negative information about the loan and top up taken out in January 2013 from Mrs G's credit file.

*HM Revenue & Customs requires Express Finance (Bromley) Limited to take off tax from this interest. It must give Mrs G a certificate showing how much tax it's taken off if she asks for one. If Express Finance (Bromley) Limited intends to apply the refund to reduce any outstanding capital balance, it must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 15 February 2018.

Ruth Stevenson
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