

complaint

Mr B complains that Express Finance (Bromley) Limited (trading as Payday Express) didn't carry out proper affordability checks and irresponsibly granted him unaffordable payday loans. He wants the charges and interest refunded and his credit file amended.

background

Payday Express said in its final response that Mr B applied for the first loan in February 2013. He confirmed personal information and it carried out external credit and identity checks. The loan for £200 was agreed. It was paid off. After this nine loans were agreed, plus two top ups and four deferrals. On two occasions Mr B asked for his account to be blocked. But he overturned these requests and continued borrowing. The last loan for £120 was in May 2014. It was topped up by £430. It was also deferred. It was paid off some months later. It carried out appropriate checks and assessed the loans' affordability. The applications met its lending criteria and were affordable. It relied on the information Mr B provided. He never said he was in financial difficulty.

Our adjudicator felt this complaint should be upheld. He said:

- There was nothing that should've alerted Payday Express to the fact the first three loans weren't affordable or suggested it should've done more checks than it did. These loans seemed affordable on the information given.
- But when Mr B took out his fourth loan it should've asked more questions given his borrowing history. It shows he was starting to rely on short term lending as a long term solution to his finances. If it'd done so Payday Express would've realised most of Mr B's income was being spent on gambling and he was taking out loans with other lenders at the time. So, it shouldn't have lent to him again.
- So, Payday Express should refund all interest and charges on all loans from May 2013 onwards plus pay interest. It should also remove adverse information about these loans from his credit file

Payday Express doesn't agree. In summary it says Mr B received eight loans with six top ups. All the loans were affordable. The amounts borrowed varied and there were some gaps in them being given. Mr B's pattern of borrowing doesn't show financial difficulties. The information given shows the loans were affordable. It considered Mr B's income and expenditure and carried out checks. It's not responsible if he didn't give accurate information. It wasn't obliged to see his bank statements and would've only known about a gambling problem if he'd told it about 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.

I agree with the adjudicator's conclusions for the same reasons.

Payday Express was entitled to rely on the information Mr B gave. It says it would've carried out various internal and external checks including with credit reference agencies.

Whatever level of checks Payday Express carried out at the time of each loan application I think the Mr B's borrowing history including of top ups, deferrals and some sequential borrowing should've quickly alerted it to the fact that he may have been in some financial difficulty, the loans may have been unaffordable and particularly that he was becoming reliant on short term lending. He also twice asked for his account to be blocked which was likely a sign he'd some relevant personal issues.

At very least Payday Express should've reasonably asked more questions but it wasn't obliged to ask to see his bank statements. Even so, if it'd asked more or carried out further checks I think Mr B's financial problems and personal issues would've likely become apparent. And Payday Express would've likely declined to grant the later loans.

Taking everything into account I think the adjudicator's proposed resolution of this complaint is fair and reasonable. And I don't see any reason to change the proposed outcome in this case.

If Payday Express considers that it's required by HM Revenue & Customs to withhold income tax from the interest I award, it should tell Mr B how much it's taken off. It should also give Mr B a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

my final decision

I uphold this complaint and I require Express Finance (Bromley) Limited (trading as Payday Express):

1. To refund all interest and charges on all loans from May 2013 onwards plus pay simple interest at the rate of 8% a year from the date each such sum was paid until the date of settlement; and
2. To remove adverse information about all loans from May 2013 from Mr B's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 30 January 2017.

Stephen Cooper
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