

## **complaint**

Mr M complains that MEM Consumer Finance Limited (trading as Payday UK) were irresponsible to lend money to him.

## **background**

Mr M took out eleven loans with Payday UK between 2012 and 2014. He says that at the time of taking the loans, he was struggling with personal and financial problems and using loans to pay off other loans.

Mr M says the main reason for taking the loans was because at the time he was suffering from depression and was in a spiral of debt. This was caused by his own gambling addiction, together with a marital separation, which compounded all of his problems - both personal and financial. Mr M feels the lending was irresponsible and that had Payday UK carried out better checks on his financial situation; it would've been obvious that he was in difficulty.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. And I've thought about everything that both Mr M and Payday UK say. I've looked at each of the loans in turn and thought about whether Payday UK carried out proportionate checks.

### *loans one - three*

Mr M took the first loan with Payday UK in 2012 and he needed to repay £387 in total. Payday UK checked with Mr M what his income was and completed a credit and ID check. But considering the income he declared, I don't think these checks were enough. I think Payday UK should've carried out further checks to establish whether he'd be able to afford to repay the loan. But, had Payday UK asked more questions like what his normal monthly living costs were and his other regular financial commitments, it would've seen that Mr M was able to afford to repay the loan. So it wasn't wrong to lend to him at this time.

Mr M took the second loan with Payday UK a couple of weeks after repaying the first loan. This time he had to repay around £450 including interest. But as Mr M deferred the repayment of the first loan on two occasions, I think Payday UK should've considered this when deciding what checks it needed before agreeing to the loan. So again I don't think the checks Payday UK did were proportionate. But had it asked more questions like I've suggested it did for the first loan, it would've again been satisfied that Mr M did have enough disposable income to repay the loan.

The third loan Mr M took out was for a slightly smaller amount – he needed to repay around £320 including interest. There were no issues with the repayment of the second loan. But I still think that Payday UK should've done more checks than it did. By this point Mr M had started to show that he was regularly asking for further borrowing only a short while after repaying the previous loan. Had it asked further questions like what his normal monthly living costs were and his regular financial commitments, it would've seen that Mr M's monthly income and expenditure were stable and he had enough disposable income to repay the loan in a sustainable way.

So I don't think the checks went far enough for these loans given the amounts that Mr M was borrowing and his repayment history. So I would've thought Payday UK would've wanted to know about Mr M's living costs and regular financial commitments. But had it done so, I think Payday UK would've most likely seen that the loans were affordable.

#### *loans four – eleven*

Mr M asked Payday UK for further lending at the end of 2012. This time he asked them for a substantially higher amount than he'd asked for before – this time he was to repay just over £1,000 including interest. I can't see that Payday UK completed any further checks than what it had done previously. At this point in time, and particularly considering how much Mr M now had to repay, I would've expected it to have completed further checks and not relied on any previous information declared by Mr M. I think Payday UK should've done a full financial review of Mr M's circumstances. This could've included asking to see things such as his bank statements, wage slips and/or utility bills to verify what he'd told them.

Had Payday UK done this, it would've seen that Mr M's monthly income was a lot less than the £2,000 he'd declared before. It was around £1,400. Considering this together with his normal monthly expenditure, meant he only had disposable income of around £200 – not enough to be able to afford to repay this loan.

Loans five – eleven were all of similar amounts – around £1,000 including interest (loan eight was for around £250 including interest). I can't see that on any of these occasions that Payday UK asked sufficient questions to check whether Mr M was able to afford to repay any of these loans in a sustainable way. I can see that it asked about Mr M's monthly expenditure from loan eight. But Mr M only declared £80 – and as I've mentioned above, I don't think by this point it was right for Payday UK to rely on Mr M's verbal declaration.

Again, had it done further checks and completed a full review of Mr M's financial circumstances, it would've seen that Mr M was now spending a large amount of his income and payday lending on gambling. His monthly income stayed at around £1,400 a month. But his expenses exceeded his income on a regular basis, meaning he needed to rely on payday lending to support his living costs.

So overall, for loans four – eleven, I don't think Payday UK did proportionate checks so show that Mr M could afford to repay these loans in a sustainable way. And I think that if it had it would have realised Mr M couldn't afford to repay the loans and it wouldn't have lent to him.

#### **putting things right**

To put things right Payday UK should:

- refund all interest and charges Mr M paid on – all the loans he took from (and including) 2 December 2012 ;
- pay interest on these refunds at 8% simple\* per year from the dates of payment to the date of settlement;
- remove any adverse information about these loans from Mr M's credit file.

\*HM Revenue & Customs requires Payday UK to take off tax from this interest. Payday UK must give Mr M a certificate showing how much tax it's taken off if he asks for one.

**my decision**

For the reasons set out above, I'm partly upholding Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 27 July 2017.

Helen Giles  
**ombudsman**