

complaint

Mr B complains about two loans he took out with Instant Cash Loans Limited, trading as Payday UK, ("ICL"). He said that ICL shouldn't have given him the loans as they were unaffordable. The complaint is brought to this service on Mr B's behalf by a claims management company. But for ease, I shall refer below to all actions being taken by Mr B.

background

Mr B took out two loans with ICL as follows:

Loan number	Date of Loan	Loan amount	Type of loan	Date repaid
1.	5/6/2016	£250 plus interest (£298)	Payday	29/6/2016
2.	30/6/2016	£450 plus interest (£781.30)	Instalment loan - 5 monthly instalments of £156.26	Unpaid

Mr B said that ICL had failed to carry out effective affordability assessments. He was dependent on payday loans and stuck in a cycle of borrowing.

ICL had obtained details of income and outgoings from Mr B. ICL had also carried out a credit search before Loan 1. ICL said that based on the information Mr B provided to it, the loan repayments were affordable for him with spare money left over. It said there weren't any particular issues with other lenders that concerned it and it didn't think Mr B was reliant on borrowing from it as he only received two loan deposits.

our adjudicator's view

The adjudicator initially said that the checks on Loan 1 were sufficient. But he didn't think that Loan 2 was affordable as ICL showed that Mr B had a disposable income of £205.21 which wasn't sufficient to cover the loan repayment and any emergency costs which might occur in the month.

ICL responded to say that the adjudicator had referred to a statistical amount for housekeeping in calculating disposable income for Loan 2. But when the loans were provided, it didn't include the statistical amount in its assessments and would have relied solely on the information Mr B declared at the point of application. This information showed the loans to be affordable, and they were subsequently approved.

Mr B responded to say that his gambling tendencies shown on his bank statements should be taken into account.

The adjudicator explained that there was no requirement for a lender to check bank statements before granting loans. He said that checking bank statements in full was the level of check a lender should do in the most extreme circumstances, but he didn't think Mr B's pattern of borrowing required that type of check.

The adjudicator also referred to a spreadsheet provided by ICL which he believed showed a disposable income amount of £230.02 for Loan 1 which he said was insufficient to repay the Loan 1 repayment of £298. So he said that Loan 1 shouldn't have been given. But he also said that Loan 2 appeared affordable so he changed his recommendation so that only Loan 1 should be refunded.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr B and to ICL on 1 November 2018. I summarise my findings:

I explained that ICL is required to lend responsibly. I said that it needed to make checks to see whether Mr B could afford to pay back each loan before it lent to him. Those checks needed to be proportionate to things such as the amount Mr B was borrowing, and his lending history, but there was no set list of checks ICL had to do.

ICL had told us that before lending to Mr B, it had asked him about his income and expenditure. And it had carried out a credit check before Loan 1. I'd seen a summary of ICL's credit check but I'd not seen anything on it that I thought should have caused ICL additional concerns about Mr B's financial situation.

Loan 1

Mr B had declared a monthly income of £1,200 (shown in a note on 4 June 2016 in ICL's contact notes) and regular expenditure of £350 at the time of Loan 1. The regular expenditure didn't include an amount for food. The repayment amount for Loan 1 was £298. I'd thought about whether ICL's checks were proportionate for this loan. Those checks showed that Mr B had a disposable income of around £850 at the time. So even though food wasn't included in the outgoings, I thought that the information ICL had gathered showed that this loan repayment was affordable, and I thought it was reasonable for ICL to rely on the information it had at this early point in the lending. So, I didn't uphold Mr B's complaint about Loan 1.

I'd noted that the adjudicator had seen a spreadsheet that appeared to show that Mr B's disposable income before Loan 1 was £230.02. But I could see that this spreadsheet showed Mr B's declared expenditure information for Loan 2 (and not the information he provided for Loan 1) although it had referred to Loan 1 in error. So the information relating to Loan 1 in the spreadsheet wasn't correct, and as the adjudicator based his conclusions on the incorrect spreadsheet, I didn't agree with his conclusions.

I also accepted that ICL didn't include the statistical amount in its calculation of disposable income at the time of Loan 1 so I hadn't included it in my calculation of Mr B's disposable income.

Loan 2

Loan 2 was taken out the day after Loan 1 was repaid. The loan was an instalment loan with five monthly repayments of £156.25. ICL's records appeared to show that Mr B's income had reduced to £1,100 and his outgoings were £609, although an email from ICL to this service also referred to outgoings of £709 including food. I couldn't see this later amount on ICL's spreadsheet. So I said that his disposable income had reduced to at least £391 (if the outgoings were £709). But I thought the repayment amounts were still relatively modest

compared to Mr B's declared disposable income. So, I thought it was proportionate for ICL to consider Mr B's declared income and expenditure, without making further checks for Loan 2. So, I didn't think ICL did anything wrong in giving Loan 2 to Mr B.

As with Loan 1, I had accepted that ICL didn't include the statistical amount in its calculations at the time of Loan 2 so hadn't included it in my calculation of Mr B's disposable income for this loan.

I thought that Mr B would be disappointed with my decision. I also noted that he had said that he had gambling tendencies. But that wasn't something he had told ICL about or something that ICL would have discovered from what I considered to be proportionate checks.

So, subject to any further representations by Mr B or ICL, my provisional decision was that I didn't intend to uphold this complaint.

ICL responded to say that it agreed with my findings and had no further comments to add. Mr B didn't provide any response in response to my provisional decision.

my findings

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

Given that Mr B and ICL have given me nothing further to consider, I see no reason to depart from the conclusions I reached in my provisional decision.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 17 January 2019.

Roslyn Rawson
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