

complaint

Mr B complains that the loans he took out with Instant Cash Loans Limited (trading as Payday UK) were unaffordable.

background

Mr B had seven loans from Payday UK between June 2015 and February 2017 as follows:

| <u>Loan</u> | <u>Date</u> | <u>Amount</u> | <u>Term</u> | <u>Repayment</u> | <u>Due</u> | <u>Repaid</u> |
|-------------|-------------|---------------|-------------|------------------|-------------|---------------|
| 1 | 15 Jun 2015 | £200 | 2m | £140.24 | 20 Aug 2015 | On time |
| 2 | 30 Aug 2015 | £300 | 4m | £113.09 | 18 Dec 2015 | On time |
| 3 | 18 Dec 2015 | £600 | 4m | £244.08 | 20 Apr 2016 | On time |
| 4 | 20 Apr 2016 | £1,000 | 5m | £350.48 | 10 Jun 2016 | Early |
| 5 | 23 Jun 2016 | £800 | 6m | £233.33 | 20 Dec 2016 | On time |
| 6 | 4 Jan 2017 | £850 | 6m | £233.05 | 31 Jan 2017 | Early |
| 7 | 4 Feb 2017 | £1,010 | 7m | £239.58 | 22 Mar 2017 | Early |

Mr B says that at the time of each loan application he already had outstanding loans with other short-term loan providers that he was struggling to repay. He adds that his credit record was poor and that his pattern of borrowing should have alerted Payday UK to potential financial problems.

Payday UK says it asked Mr B for information about his income and expenditure and checked his credit record. It says the loans appeared affordable and it didn't find any issues that caused concern.

Our adjudicator recommended the complaint should be upheld in part. He was satisfied that Payday UK had done enough checks before approving the first three loans, but that it needed to collect further information before making a decision about the remaining loans. He found that, had it done so, Payday UK would have found Mr B couldn't afford the repayments on loans 4 to 7. He recommended Payday UK should refund the interest and charges on these loans (plus 8% statutory interest) and remove any associated negative information from Mr B's credit file.

Payday UK responded to say, in summary, that it accepted the adjudicator's recommendation.

Mr B said that the adjudicator's comments regarding loan 4 also applied to loan 3 as he had significant commitments to other short term loan companies in December 2015 as well as in 2016. Mr B added that if Payday UK had done better checks it would have noticed a high number of gambling transactions too.

my findings

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

Payday UK was required to lend responsibly. It should have made checks to make sure Mr B could afford to repay the loans 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 Payday UK had to do.

Loans 1 to 3

When Mr B applied for his first loan, in June 2015, he told Payday UK his income was £3,800. The two scheduled repayments on loan 1, at £140 per month, were a small percentage of this, and Payday UK checked Mr B's credit file and found no cause for concern. I'm satisfied, therefore, that it didn't need to do any further checks before approving the first loan.

Similarly, for Mr B's second loan, he declared his income to be £3,700 and his scheduled repayments were lower, at £113 over four months. As Mr B had repaid the first loan on time, I can't see Payday UK should have carried out any further checks before deciding this loan was also affordable.

Mr B took out loan 3 the same day he repaid the previous loan. As this was for a higher amount and the scheduled repayments were over £240 for four months, I consider Payday UK should have asked Mr B about his regular outgoings. Payday UK did this and calculated Mr B had a disposable income of over £2,100. So I can understand why Payday UK considered this loan was affordable to Mr B.

Loan 4

I don't think Payday UK's checks went far enough before it approved loan 4. I say that because this was his fourth loan in quick succession, he'd applied for it the same day he repaid loan 3 and he was borrowing significantly more money. As his scheduled repayments were over £350, for five months, and he appeared to be becoming reliant on such funding, I think Payday UK should have asked Mr B whether he had any other outstanding short-term loans. I can't see it did this.

Had it done so, it would have found Mr B owed over £1,000 to three other short-term lenders. As he'd said his disposable income was about £1,500, this left him with about £460 with which to make the scheduled repayments. I'm satisfied this wasn't sustainable over the five-month term of the loan, so I can't conclude Payday UK should have approved Mr B's fourth loan.

Loans 5 to 7

By the time Mr B applied for his fifth loan, I think proportionate checks should have included verifying the information he'd provided as well as carrying out a full review of his circumstances, including short-term loans. If it had done this by, for example, looking at Mr B's bank statements, it would have found he owed almost £1,800 to other short-term lenders at the same time as his first instalment of loan 5 was due. Although his income was roughly in line with what he'd declared Mr B could not afford to make his Payday UK repayment, on top of the other STL repayments, and still have enough money for his regular financial commitments.

His reliance on short-term lending continued throughout the end of 2016 and the beginning of 2017. Indeed, by January 2017, he was repaying over £3,000 to nine other short-term lenders, so I'm satisfied Payday UK would have also found loans 6 and 7 to be unaffordable had it carried out a proportionate level of checks.

I acknowledge Mr B says he also had a high level of short-term loans at the time he took out loan 3 with Payday UK, but I need to consider what level of checks was appropriate at that stage in his borrowing history. For the reasons stated above, I consider Payday UK needed to look at his regular expenditure, but I don't think it needed to do additional checks at this stage. I say that because Mr B's declared income was significantly higher than his scheduled repayments and I can't say Payday UK should have identified he may have been becoming reliant on such lending. So, although I accept Mr B had significant financial commitments to other short-term loan companies when he applied for loan 3, I think it's reasonable that Payday UK didn't check this in December 2015.

I also acknowledge that Mr B had a significant gambling issue throughout the period of the loans. I would have expected Payday UK to take this into account when it considered whether it was responsible to continue lending to him. However, I find proportionate checks should only have included a full financial review from loan 5 onwards. By this stage, the loans were unaffordable because of the other short-term lending, even before the spend on gambling was taken into account.

my final decision

My decision is that I uphold this complaint in part. Instant Cash Loans Limited (trading as Payday UK) should:

- Refund all interest and charges that Mr B paid on loans 4 to 7;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
- Remove any negative information about loans 4 to 7 from Mr B's credit file.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 May 2018.

Amanda Williams
ombudsman