

complaint

Miss H complains that MEM Consumer Finance Limited (trading as Payday UK) gave her unaffordable payday loans. She wants a refund of the interest she paid.

background

Miss H had four loans from Payday UK between October 2013 and May 2014. She said she couldn't afford to repay the loans and was borrowing from other short-term lenders. Payday UK said that from the information available it thought Miss H could afford the loans.

Our adjudicator recommended that the complaint should be upheld in part. She thought Payday UK had made proportionate checks on the affordability of loan one, but not the other loans. She thought that if it had, then it would have seen that Miss H was borrowing from short-term lenders to fund her gambling. She didn't have the disposable income to repay her loans without further borrowing.

So she thought it was wrong for Payday UK to approve loans two to four. She thought it should refund the interest and charges Miss H paid for these, with interest, and remove adverse information from her credit file.

Payday UK replied that it had made the affordability checks required at the time. It said the loans were small compared to Miss H's disposable income.

my findings

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

Miss H's first loan was for £200 (£259.98 with interest). She deferred this once before repayment. Two months later, she borrowed and repaid £400 (£519.80 with interest). A month after that, she borrowed £200 which she deferred once and then repaid. A week later, she again borrowed £200 which she repaid.

Payday UK was required to lend responsibly. It should have made checks to make sure that Miss H could afford to repay the loans before it lent to her. Those checks needed to be proportionate to things such as the amount Miss H was borrowing, and her lending history. But there was no set list of checks Payday UK had to do.

Miss H told Payday UK that her monthly income was £2,300 after tax. She said her expenditure, including rent and credit repayments, for loans one to three was £800, leaving her with £1,500 disposable income. For loan four, her outgoings also included her bills, transport and food, leaving her with £1,100. Payday UK said it made a credit check on loan one and this didn't show anything untoward that would hinder Miss H's repayments.

I agree with the adjudicator that Payday UK's checks on loan one were proportionate and sufficient. This was Miss H's first loan. It was small compared to her income. But, despite her reported large disposable income, Miss H struggled to repay loan one and had to defer it. Her next loan was for double the amount.

I also agree with the adjudicator that this should then have alerted Payday UK to make further checks on Miss H's financial circumstances. So I don't think Payday UK's checks

were sufficient for the last three loans. I think it should have looked more closely at Miss H's expenditure for her living costs and regular financial commitments to see if she could afford her repayments.

I've looked at Miss H's bank statements from the time to get information about her finances, but Payday UK could easily have asked Miss H for it. Much of Miss H's income, apart from paying bills, was spent on other short-term loan repayments and gambling. She was in her over-draft and didn't have sufficient left to repay her loans comfortably. This pattern continued for her last three loans.

So I think that if Payday UK had made further checks it would have seen, as I have, that Miss H couldn't afford her last three loans. And so, as a responsible lender, it should have declined them. I think it was wrong for it to give Miss H loans two to four.

my final decision

My final decision is that I uphold this complaint in part. I require MEM Consumer Finance Limited (trading as Payday UK) to do the following:

1. Refund Miss H the interest and charges she paid on loans two to four, adding interest at 8% simple per annum from the date of payment to the date of settlement.
2. HM Revenue & Customs requires Payday UK to withhold income tax from that interest. It must give Miss H a certificate showing how much it's taken off if she asks for one.
3. Remove any adverse information relating to these loans from Miss H's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 22 May 2017.

Phillip Berechree
ombudsman