

complaint

Mr A complains that Express Finance (Bromley) Limited trading as Payday Express lent to him irresponsibly.

background

Payday Express' records show that a running account credit agreement was entered into with Mr A on 19 December 2011. The 'drawdowns' were for specific time periods and could be extended. There were a number of 'advances of credit' between 10 December 2009 and 15 March 2012.

Payday Express said we could not look into all of Mr A's complaint because the complaint was made too late. On 20 March 2019 I issued a decision on this point and I decided that I cannot look at Mr A's complaint in relation to the credit taken before 7 August 2011. But I can consider that part of Mr A's complaint from 7 August 2011. I refer to that earlier decision for the detailed reasons.

Our adjudicator had come to the same conclusion earlier about what he could look at and last November 2018 he considered the complaint. He thought that Payday Express should put things right in relation to the credit advanced to Mr A from 30 December 2011 and each advancement after that up to 15 March 2012.

Payday Express agreed with our adjudicator's view and carried out some calculations for the redress sums. It agreed to amend Mr A's credit file. It wished to set-off the sums it had calculated it owed Mr A from what it says Mr A owes to it, being the outstanding balance.

Mr A seemed to accept the adjudicator's opinion in relation to the irresponsible lending. He took issue with the fact that the earlier loans could not be included in his complaint and as I have explained above, that has been resolved by my earlier decision on that issue.

Mr A did not agree with the redress calculations because he disputes that there is an outstanding balance.

The current position is that as Payday Express has agreed with our adjudicator's view, and in view of Mr A's response on the irresponsible lending point then then the natural conclusion is that there is no longer a dispute about that aspect of this complaint.

Payday Express says that there is an outstanding balance on the loan approved on 15 March 2012. Mr A says that there is not. So I've looked at this only.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

After some investigation into whether an outstanding balance exists our adjudicator sent to Mr A's representative an account transaction list provided by Payday Express. This showed that Mr A hadn't fully repaid the last advance. Payday Express explained that it had received two payments from Mr A's debt management company of £4.50 each on 15 June 2012 and 10 July 2012. The records show no further repayments.

Our adjudicator communicated this to Mr A's representative and suggested Mr A contacted his debt management plan provider. The alternative was to send us some evidence for us to forward on to Payday Express. We have received nothing further from Mr A.

So having thought about the evidence I have I think it's more likely that Mr A didn't fully repay Payday Express what he owes it.

The offer from Payday Express to put things right in relation to the complaint remains and I agree with it.

putting things right

- refund *all* the interest and charges applied from 30 December 2011 onwards; and
- add interest at 8% per year simple interest* on the above refunded sums from the date they were paid, if they were, to the date of settlement;
- remove any adverse payment information recorded on Mr A's credit file but as these loans were over six years ago they may not appear on Mr A's credit file anymore;

Payday Express is entitled to set off any monies arising from the redress against any monies Mr A may owe it, but any unpaid charges and interest would need to be removed first and any payments made treated as if Mr A had paid down the principal.

*HM Revenue & Customs requires Payday Express to take off tax from this interest. It must give Mr A a certificate showing how much tax it's taken off if he asks for one. If Payday Express intends to apply the refund to reduce any outstanding capital balance, it must do so after deducting the tax.

my final decision

My final decision is that I uphold Mr A's complaint in part and Express Finance (Bromley) Limited, trading as Payday Express, should do as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 25 April 2019.

Rachael Williams
ombudsman