

complaint

Mr M complains that Instant Cash Loans Limited (trading as Payday Express) lent him money even though it should have realised the repayments were unaffordable to him.

background

Mr M had two loans from Payday Express in October 2009.

Payday Express said the loans were affordable to Mr M based on the information he'd declared. It said the repayments were low and there were no issues with other lenders about which it was concerned.

Our adjudicator did not recommend the complaint should be upheld. He found that Payday Express had asked Mr M about his income and checked his credit file before approving the loans. He considered the checks went far enough given the repayments were small compared to Mr M's income. So he couldn't conclude that Payday Express should have found the loans to be unaffordable to him.

Mr M responded to say, in summary, that Payday Express should have identified he was struggling, was in a debt management plan and was gambling and was using other short-term loan providers, including Payday Express' sister company. So, he said, it was irresponsible to approve the loans.

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

In the case of both these loans the repayments, of £200, were a small proportion of Mr M's declared income. Mr M told Payday Express he was earning around £1,500 per month and I'm satisfied that, combined with the credit check, this was enough information for Payday Express to make its lending decisions. The credit check would not have revealed the full information about Mr M's short term lending.

I acknowledge Mr M says that at the time of both loans he'd been the subject of a default in 2008, but I don't consider Payday Express should have declined the loans on that basis. I also accept Mr M was borrowing from other short-term lenders, but I don't think proportionate checks should have included specific questions about Mr M's other short-term commitments at this stage. Even though one of the lenders is now a sister company to Payday Express, I'm satisfied that wasn't the case at the time of the lending and, therefore, Payday Express would not have had that information.

In summary, I find Payday Express carried out enough checks before approving the loans. Mr M had a high income relative to his repayments and he'd repaid the first loan on time. I also can't see there was anything on Mr M's credit file that should have indicated to Payday Express that the lending was irresponsible at that time. If the lending had continued then

I would have expected further checks but I can't say that Payday Express was wrong to give Mr M the two loans it did.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 June 2018.

Emma Boothroyd
ombudsman