

complaint

Mr M complains that MEM Consumer Finance Limited (trading as Payday UK) gave him a payday loan he couldn't afford. He wants it to waive the debt he owes and refund the interest and charges he paid.

background

Mr M took out a loan for £410 from Payday UK in 2011. He said that it didn't carry out sufficient affordability checks. Payday UK didn't respond to his complaint or provide us with any information on the loan.

Our adjudicator recommended that the complaint should be upheld. She looked at Mr M's bank statements from the time and saw that he had received the loan. But she didn't have any information about what affordability checks Payday UK carried out. So she thought it should refund Mr M the interest and charges he paid and remove the loan from his credit file.

Payday UK didn't reply to the adjudicator, so Mr M's complaint has come to me for a final 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.

Mr M told us that he had two loans from Payday UK in 2011 when he was in financial difficulties. He said he took out and repaid the first loan. Then he took out a much larger loan and still owes about £440 for this.

Mr M said that when he took out the loan he had other debts that would have shown on a credit check. He said that he's been on a debt management plan since then to repay his debts. He doesn't think Payday UK checked that he could afford to repay his loan.

Lenders are obliged to make sufficient and proportionate checks to make sure that loan repayments are affordable without undue hardship.

Payday UK hasn't sent us any information so I can't see what checks it made on the affordability of Mr M's loans. I can see that our adjudicator first asked for this in May 2016, so I think it's had ample time to respond.

Mr M, however, has sent us his bank statements from the time. I've looked at these to see what he borrowed and what checks on affordability would have shown. Mr M's salary was about £1,100 a month net. He was borrowing increasing amounts from payday lenders to keep within his overdraft. But he then had to borrow further to repay the interest on these loans.

In August 2011, Mr M borrowed £410 from Payday UK. I would have expected Payday UK to carry out checks on the loan's affordability. I don't have any evidence that it did this. I think if it had looked at Mr M's circumstances, such as his income and expenditure, it would have found that this loan was large compared with his salary. It would have found that he was spending a lot of his salary repaying other debts. I think it would have declined to offer the loan.

So I agree with the adjudicator that Payday UK should refund the interest and charges Mr M paid on this loan, with interest. I don't think it should waive the debt Mr M owes as this isn't our usual approach. As I don't have any information about the account, I don't know how much Mr M has repaid. So I can't say that Payday UK should offset the refund against any principal Mr M still owes. I also think it should remove this loan from Mr M's credit file.

my final decision

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

1. Refund Mr M the interest and charges he paid on his loan, adding interest at 8% per annum from the date of payment to the date of settlement.
2. Remove the loan from Mr M's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 10 October 2016.

Phillip Berechree
ombudsman