

complaint

Mr C complains that MEM Consumer Finance Limited (trading as Payday UK) agreed to give him three loans that he couldn't afford to repay.

background

Mr C first borrowed from Payday UK in May 2013 – the loan was for £450. A couple of days after repaying that loan, in June 2013 he borrowed £550. He rolled that loan over once, before repaying it at the end of July 2013. And the following day he took another loan – for £580 from Payday UK. This loan was rolled over four times before being repaid in December 2013.

Mr C's complaint has been assessed by one of our adjudicators. He thought that the checks Payday UK did before each loan were insufficient, and that the loans were unaffordable. So he recommended that Mr C's complaint should be upheld. Payday UK hasn't responded to that assessment so the case has been passed to an ombudsman to decide. This is the final stage of our process – if Mr C accepts my decision it is legally binding on MEM Consumer Finance Limited.

my findings

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

Payday UK was required to lend responsibly. It needed to make checks to see whether Mr C could afford to pay back each loan before it lent to him. Those checks needed to be proportionate to things such as the amount Mr C was borrowing and his lending history, but there was no set list of checks Payday UK had to do.

When Mr C made his first application to Payday UK it seems he was asked about his income. Payday UK also says that it checked Mr C's circumstances with a credit reference agency. But it doesn't seem that Mr C was asked about his normal expenditure. So I don't think that, given the relatively large loan Mr C was taking in comparison to his income, the checks Payday UK did at the time were enough.

By choosing not to conduct further checks, such as asking Mr C about his normal expenditure or looking at his bank statements, Payday UK was unaware of the true state of Mr C's finances. Mr C was spending significant sums each month on gambling transactions and using his overdraft with his bank to its limit. This meant that he was unable to sustainably repay the loan of £450 that he took from Payday UK. And I think that if sufficient checks had been performed, this would have been apparent to the lender.

By the time of his second loan, Payday UK did ask Mr C about some of his normal expenditure. It asked him how much he spent on his housing costs and on other credit commitments. But it doesn't seem that Mr C was asked about most of his other expenditure such as what he was spending on utility bills, food or travel costs. Nor did Payday UK re-check his credit file. And since the amount Mr C was asking to borrow was even higher than his first loan, I don't think these checks were enough either.

Mr C's financial situation had continued to worsen. Around the same time he'd first borrowed from Payday UK he'd also taken loans from other payday lenders. These needed to be repaid along with this new loan. And he continued to gamble heavily. So, as before, this loan wasn't something that he could sustainably repay – from his normal disposable income rather than needing to seek other sources of finance such as additional lending.

Mr C rolled over his second loan – deferring the repayment of the principal amount for a month. That might suggest that he was facing increasing pressure on his finances. The third loan Mr C asked for, on the day after he repaid his second loan, was for a higher amount again – it was for £580. And it seems the checks that Payday UK did were the same as for the second loan. So, as before, I don't think these checks were enough. And given Mr C's financial circumstances hadn't materially improved, this loan wasn't affordable for him either.

In summary, I don't think that the checks Payday UK did for any of Mr C's three loans were enough. And had it done fuller checks I think Payday UK would have seen that Mr C couldn't afford to sustainably repay the loans and so it wouldn't have lent to him. So Payday UK needs to pay Mr C some compensation.

putting things right

I don't think Payday UK should have agreed to give Mr C any of the loans that he took, in May, June and August 2013. So MEM Consumer Finance should;

- Refund any interest and charges applied to the loans.
- Add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement*.
- Remove any adverse information recorded on Mr C's credit file in relation to the loans I am asking to be refunded.

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

my final decision

My final decision is that I uphold Mr C's complaint and direct MEM Consumer Finance Limited to pay him fair compensation as detailed above.

I make no other award against MEM Consumer Finance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 21 November 2016.

Paul Reilly
ombudsman