

complaint

Mr F complains that Instant Cash Loans Limited (trading as Payday UK) gave him loans that he couldn't afford to repay.

background

Mr F borrowed a total of 30 times from Payday UK. His first loan was taken in September 2010 and his last in July 2015. But Instant Cash Loans was only responsible for the loans given by Payday UK after February 2015. So this decision will only consider the last four loans that Mr F took. The remaining 26 loans will be considered in a separate decision.

The four loans that I am considering in this decision are shown in the table below.

Loan Number	Borrowing Date	Loan Amount	Repayment Date
1	05/03/2015	300	25/03/2015
2	06/04/2015	250	24/04/2015
3	09/05/2015	350	24/07/2015
4	25/07/2015	500	01/09/2015

The final two loans shown above were instalment loans. Mr F needed to repay the capital and interest that he'd borrowed in two instalments for loan 3 and three instalments for loan 4.

Mr F's complaint has been assessed by one of our adjudicators. She thought that Payday UK shouldn't have agreed to give Mr F any of the loans. So she asked Payday UK to pay Mr F some compensation. Payday UK didn't agree with that assessment so the complaint has been passed to me, an ombudsman, to reach a final decision. This is the last stage of our process – if Mr F accepts my final decision it is legally binding on both parties.

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.

The Financial Conduct Authority was the regulator at the time Mr F took these loans from Payday UK. Its regulations for lenders are set out in its consumer credit sourcebook (generally referred to as "CONC"). These regulations require lenders to take "*reasonable steps to assess the customer's ability to meet repayments under a regulated credit agreement in a sustainable manner without the customer incurring financial difficulties or experiencing significant adverse consequences.*" - CONC 5.3.1(2). CONC 5.3.1(7) defines 'sustainable' as being able to make repayments without undue difficulty. And explains that this means borrowers should be able to make their repayments on time and out of their income and savings without having to borrow to meet these repayments.

So, the fact that the repayments Mr F needed to make might have been low in comparison with his income, or that he managed to repay them in full and on time, doesn't necessarily mean the loans were affordable for him and that he managed to repay them in *a sustainable manner*. In other words I can't assume that because Mr F managed to repay his loans that he was able to do so out of his normal means without having to borrow further.

Mr F had been borrowing from Payday UK for a significant length of time before he took these four loans. I appreciate that there had been a break in his lending – he hadn't borrowed from Payday UK for almost six months before these four loans. But I don't think that amount of time, particularly bearing in mind how regularly Mr F had borrowed in the past, should have been enough to reassure Payday UK that Mr F's finances were now back on track.

From the information I've seen Payday UK only asked Mr F to confirm his normal income and expenditure. But I think Payday UK should have been doing substantial checks before agreeing to lend to Mr F on each occasion. I think Payday UK should have examined Mr F's financial circumstances in some detail – perhaps by asking him for evidence of his income and outgoings. So I don't think the checks Payday UK did here were enough.

Mr F was regularly borrowing from other payday lenders. He also seems to have been spending a proportion of his normal income on what appear to be gambling transactions. I think that if Payday UK had done enough checks to discover this information it would have been clear that Mr F was relying on these loans to meet his normal living expenses and to repay other credit.

I think proportionate checks would have shown Payday UK that all of these loans weren't affordable. So I don't think Payday UK should have agreed to give Mr F any of the loans that I'm considering in this decision. Payday UK needs to pay Mr F some compensation.

putting things right

I don't think Payday UK should have agreed to give Mr F any of the loans that I'm considering in this decision. So for each of those loans Instant Cash Loans 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 F's credit file in relation to the loans.

*HM Revenue & Customs requires Instant Cash Loans to take off tax from this interest. Instant Cash Loans must give Mr F 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 F's complaint and direct Instant Cash Loans Limited to put things right as detailed above.

I make no other award against Instant Cash Loans Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 12 June 2017.

Paul Reilly
ombudsman