

complaint

Mr W complains that MEM Consumer Finance Limited (trading as Payday UK) was irresponsible to lend to him. He asks for compensation.

background

Mr W took out two loans with Payday UK, in April 2012 and January 2013. Mr W says he was sold these loans when he had a severe gambling problem and financial difficulties.

The adjudicator recommended that the complaint should be upheld, saying:

- Payday UK said it asked about Mr W's income and did a credit check. Mr W said his monthly income was £900. Payday UK didn't ask about Mr W's outgoings until 2014.
- Both loans required a repayment of £400. Given the amount of the loans and Mr W's stated income, Payday UK should have carried out further checks to assess whether the loans were affordable. It should have asked about Mr W's normal living expenses, regular financial commitments and his short term commitments.
- Information from Mr W and his bank statements showed his normal monthly living costs were £800 and his regular financial commitments were £140. He didn't have enough income left to repay the loans. The loans weren't affordable.

The adjudicator said Payday UK should refund interest and charges, with 8% interest and remove negative information about the loans from Mr W's credit file.

Payday UK didn't agree. It said Mr W had said his income was £900 and he lived with his parents. The credit check didn't suggest any problems. There was a gap of about six months between the loans. Payday UK said the information it had suggested the loans were affordable and didn't suggest further checks were needed.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Lenders have to assess whether a loan is affordable using suitable information. But checks must be proportionate depending, for instance, on the size of the loan, the repayments and what the lender knows about the customer.

The repayment for the first loan, taken out in April 2012, was £400. Mr W said his monthly income was £900. While living expenses can be lower for people living with their parents, it doesn't necessarily mean the loans were affordable. I think, given the amount of the loan and Mr W's stated income, Payday UK should have asked for information about his normal monthly living expenses, regular financial commitments and short term commitments. I think it should have asked for the same information when Mr W applied for the second loan, which also required a £400 repayment.

Mr W's normal monthly living expenses (rent, food and petrol) were £800 and his regular financial commitments were £140 to £170. Mr W's bank statements show payments of more than £400 to other short term lenders between taking out the first loan and repaying it. He took out short term loans of more than £1,000 shortly before taking out the second loan with Payday UK. It seems all or most of this was outstanding when he took out the second loan.

I don't think these loans were affordable and Payday UK would have known this if it had carried out proportionate checks.

I don't think Payday UK should have agreed to lend to Mr W. So it should:

- Refund all interest and charges that Mr W paid on the loans;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
- Remove any negative information about the loans from Mr W's credit file.

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

my final decision

My decision is that I uphold this complaint. I order MEM Consumer Finance Limited to amend Mr W's credit file and pay the compensation as described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 24 July 2017.

Ruth Stevenson
ombudsman