

complaint

Ms F has complained Express Finance (Bromley) Limited, trading as Payday Express, lent her money regularly without checking properly she could afford to repay them.

background

From August 2012 until March 2013 Ms F took out loans with Payday Express. She borrowed a total of £1,560 starting off with a loan for £160. At times as she wasn't able to pay back the capital, she arranged top up loans. The three latter amounts, £100, £500 and then £100, all fell into this category. After March 2013, she still owed Payday Express £774 but didn't feel she could pay them more than £20 a month.

Payday Express told her they'd treated her fairly but wrote off interest applied after she'd told them she couldn't afford to repay. Ms F was unhappy with this and brought her complaint to the ombudsman service.

After investigation, our adjudicator recommended Ms F's complaint was upheld. She asked Payday Express to refund all the interest and charges she'd been charged from loans from (and including) 28 September 2012 onwards and offset against any debt Ms F still had with them. She didn't feel Payday Express had shown the loans were affordable.

Payday Express provided evidence to show they felt they'd carried out proper checks on Ms F and she could afford to repay the money she borrowed. They've asked an ombudsman to review this complaint.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Payday Express feel they've met the guidance issued by the Office of Fair Trading (OFT) in 2010 on irresponsible lending. And I agree businesses have some choice in the affordability checks they carry out. Not only that but I wouldn't always expect a lender to carry out credit checks when someone is borrowing relatively small amounts of money – as little as £100 – for short periods of time.

However if businesses don't carry out checks to provide them with a better picture of someone's financial commitments, I believe they are accepting a level of risk that it may turn out their customer couldn't afford the loan. And I'm satisfied this is what has happened here.

By 28 September, Ms F's request for money increased substantially to £500. I think it's appropriate at that stage Payday Express should have carried out a credit check. There's no evidence they did because they were relying on their history with Ms F. She'd repaid two loans taken out within a seven-week period successfully.

However if they'd looked at her credit record, they'd have seen Ms F was borrowing money from a number of payday lenders. She had quickly found herself unable to pay the capital as well as the interest she needed to repay. This meant she was always delaying payment of the capital by having to pay ever more interest.

I've also seen no evidence Payday Express reviewed what Ms F's expenditure was. Whilst I can see she was earning a reasonable income. The fact she was regularly applying for loans – at ever increasing amounts – should have tipped them off not all was well.

Overall I can't see these loans were ever affordable.

I broadly agree with our adjudicator's view of what Payday Express should do to put things right. From 28 September, Ms F borrowed £1200 (2 x £100 and 2 x £500) and I believe she's only repaid £1,064. This means she owes Payday Express £136. I have no problems with Payday Express asking Ms F to pay this amount. But they may feel it is easier to write off this too to bring this to a close.

my final decision

For the reasons I've given, my final decision is to instruct Express Finance (Bromley) Limited, trading as Payday Express, to:

- Re-calculate the loans Ms F took out with them so no interest and charges are applied from 28 September 2012 onwards; and
- Make sure information on these loans are removed from Ms F's credit records as they were unaffordable.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms F to accept or reject my decision before 19 October 2015.

Sandra Quinn
ombudsman