

complaint

Mr A complains that Instant Cash Loans Limited (trading as Payday UK) gave him loans that he couldn't afford to repay. He asks that it refunds interest and charges and removes information about the loans from his credit file.

background

Mr A took out five loans between March 2015 and November 2015. He'd previously taken out five loans with another business then trading as Payday UK. This lending history was known to Instant Cash Loans Limited.

The adjudicator recommended that the complaint should be upheld, saying Mr A's borrowing history could suggest a problem, such as dependence on short term loans. Payday UK should have made a full review of Mr A's financial situation before lending. Had it done so, it would have seen that after meeting his living costs and financial commitments he didn't have enough income left to repay the loans.

The adjudicator said that Payday UK should refund interest and charges on the loans, with interest at 8%, and remove adverse information about the loans from Mr A's credit file.

Payday UK didn't agree. It said the information it received from Mr A and the credit search suggested the loans were affordable and didn't indicate any financial difficulties. It said the loans were repayable in instalments. Mr A repaid some loans early, which it wouldn't expect if he had financial difficulties. Payday UK said its checks were proportionate and met regulations. It said it was entitled to rely on the information Mr A provided about his income and expenditure and he didn't tell it he had financial difficulties.

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.

Mr A took out the first loan, of £400, in March 2015. The loan was repayable in three monthly repayments of £193.87. Mr A told Payday UK his monthly income was £1,100 and his expenditure was £200. While this suggests the loan was affordable, I don't think it was reasonable for Payday UK to rely on Mr A's responses to its standard application questions.

When Mr A applied for the loan he entered expenditure information for housing (£100) and credit commitments (£100). He recorded zero for food, transport, bills, utilities and other. I think Payday UK should have queried this.

Payday UK knew Mr A had previously taken out loans with another business then trading as Payday UK. Two of these loans were taken out in February 2015. Given Mr A's borrowing history, I think Payday UK should have asked for information to gain a full understanding of his financial circumstances. While there are different ways of doing this one is to look at his bank statements, as I've done.

Mr A's income varied. In March 2015 his income was £1,142. In that month he paid over £1,200 to short term lenders. There are gambling transactions in his bank statements. Mr A was borrowing from family and his account was overdrawn by nearly £1,000. I think Mr A was in financial difficulties with a possible gambling problem and dependence on short term loans. I think if Payday UK had made proportionate checks it would have known that further borrowing wasn't affordable.

Mr A's situation didn't improve during the period he took out the loans. As his monthly income varied I've calculated the average to be £995 per month between March and November 2015.

In each of June and July 2015 Mr A paid between £800 and £900 to short term lenders (other than Payday UK). In November 2015, when he took out the last loan, Mr A paid over £1,700 to other short term lenders. Mr A's account was overdrawn by amounts I consider significant relative to his income. I think Mr A was in financial difficulties and these loans were not affordable. Payday UK would have known this if it had made proportionate checks.

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

- Refund all interest and charges that Mr A 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 A's credit file.

*HM Revenue & Customs requires Payday UK to take off tax from this interest. Payday UK must give Mr A 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 Instant Cash Loans Limited to amend Mr A's credit file and pay the compensation as described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 4 December 2017.

Ruth Stevenson
ombudsman