

complaint

Mr B complains that Express Finance (Bromley) Limited trading as Payday Express was irresponsible to lend him money.

background

Mr B took out seven loans with Payday Express between July 2012 and May 2014. Mr B has instructed a third party company to bring this complaint on his behalf but I will refer to Mr B throughout the complaint. Mr B complains that during the time that the loans were given to him by Payday Express he was insolvent and the subject of a Trust Deed.

Before this service became involved, Payday Express told Mr B that it thought it had done enough to assess affordability before agreeing the loans.

The adjudicator recommended that Mr B's complaint be upheld in part. She didn't think that Payday Express's checks were proportionate before agreeing loans two to six. The adjudicator thought that before agreeing these loans, Payday Express should have asked Mr B about his net monthly income and living costs, including any regular credit commitments and for loans five and six it should've carried out a comprehensive review of Mr B's finances to check he could afford the repayments.

The adjudicator asked Mr B's representatives for some more information about Mr B's situation to see what better checks would have shown. Unfortunately Mr B's representatives didn't provide any further information so the adjudicator wasn't able to say that better checks would have made any difference to the decision to lend loans two to four. However, the adjudicator thought that given Mr B's borrowing pattern it was clear that loans five and six were unsustainable and his borrowing suggested an overreliance on short term credit which was harmful. As there was a gap before Mr B took out loan seven the adjudicator considered that the checks were enough for this loan as it was essentially a new chain of lending.

The business agreed with the adjudicator's view and offered to refund all interest and charges on loans five and six and remove them from Mr B's credit file.

Mr B's representatives didn't reply to the adjudicator's view and didn't respond to the offer made by the business so I don't know whether he agrees with the recommendation or what he thinks is wrong with the adjudicator's view.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Payday Express was required to carry out checks before agreeing to lend to make sure Mr B was able to repay each loan. These checks had to be proportionate to things such as the amount of the loan, the repayments and any lending history. But there wasn't a set list of checks Payday Express had to carry out.

Even if I decide that the checks weren't adequate; this isn't enough for me to uphold the complaint. I would also need to conclude that proportionate checks would've shown Payday Express that Mr B might struggle to repay the loans in a sustainable way.

loan one

As this was early on in Mr B's borrowing history with Payday Express, I think a proportionate check would've involved asking Mr B for details of his income. The loan repayment was £129 which was a small proportion of Mr B's declared income of £1700 so I think asking for his income was enough for this loan. Payday Express didn't have to do anything more such as carrying out a credit check or asking for a detailed breakdown of living costs and regular credit commitments.

As Payday Express only asked about Mr B's income and there was no reason to doubt what he said from any of the other information available I can't say the business was wrong to give Mr B this loan.

Loans two to four

At the point of loan 2 I think that Payday Express should have asked about Mr B's outgoings to make sure he could afford the repayments given that this loan was taken out shortly after the first loan and for an increased amount. Mr B applied to defer loan 2 and applied for loan 3 shortly after loan 2 was paid and again the checks should've included asking Mr B about his outgoings. The same applied for loan 4.

I can't say what would have happened if Payday Express had asked these questions as Mr B hasn't provided details of his income and expenditure at the time. He says that he was the subject of a Trust Deed and that all his surplus income was going to the Trustee but he hasn't provided any evidence about this so I can't say that the repayments were unaffordable and that Payday Express would've discovered this if it had asked about his income. So I can't say that Payday Express was wrong to give Mr B these loans.

Loans five and six

At the point of loan 5 I think Mr B's borrowing history alone was enough to suggest that it was no longer safe to rely on what Mr B was saying about his finances. By this point Mr B had been borrowing consecutively and this suggested reliance on short term credit and an inability to meet repayments without borrowing again. I think that Payday Express should have realised that loans 5 and 6 were unsustainable given Mr B's borrowing and repayment history. I don't think the business should have given Mr B these loans.

Loan seven

Mr B took out loan 7 a year after loan 6 was repaid. I think it would be fair for the business to conclude that Mr B's financial situation had improved and so it was reasonable to treat this as a new chain of lending and so, like the adjudicator, I think the checks for this loan went far enough.

putting things right

I think Payday Express should put things right. So for loans five and six Payday Express should:

- Refund any interest and charges paid by Mr B on 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 the information recorded on Mr B's credit file in relation to these loans.

*HM Revenue & Customs requires Payday Express to take off tax from this interest. It must give Mr B 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 this complaint in part. I require Express Finance (Bromley) Limited trading as Payday Express to put things right as outlined in the above bullet points.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 10 June 2019.

Emma Boothroyd
ombudsman