

complaint

Mr W is unhappy because Instant Cash Loans Limited, trading as PaydayUK, is asking him to repay a loan which he didn't take out.

Mr W is represented in his complaint by a local advice centre.

background

Payday UK received a loan application from Mr W in January 2015. After carrying out its checks – including whether the account the money was going to was Mr W's – and lending assessment, they gave him £150. The money was credited to Mr W's current account. The money was swiftly removed from Mr W's account along with money from four other loans.

Mr W realised he had lost his debit card, along with his PIN, and told his bank. He complained to the loan companies he'd not applied for these loans, or had had the money.

Mr W brought all his complaints to the ombudsman service through his representative. Payday UK felt they'd done all the checks they could to make sure they were giving the money to the person who applied for it. They were also concerned Mr W hadn't reported the frauds to the police or had completed the forms they felt they needed to consider his claim.

Our adjudicator felt the details used to apply for this loan including Mr W's date of birth and address details weren't available to someone who just had his debit card and PIN. He couldn't recommend asking Payday UK to stop asking Mr W for the money.

Mr W asked an ombudsman to review his complaint. He was aware part of the loan application included information about employment and he'd never been employed or received a salary. By that stage he'd also seen two loan companies agree the money had been applied for fraudulently.

my findings

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

For a fraudulent loan application to work successfully, the person making the application has to be able to get the money once the loan has been agreed. As Payday UK has pointed out, the funds need to be paid into a bank account. In Mr W's case, I'm satisfied the funds were credited to his account and withdrawn using his debit card and PIN.

Apart from the loan with Payday UK, several other loans were taken out without Mr W knowing about them. These were also credited to his current account. The money was then, mostly, withdrawn from cash machines using the debit card which Mr W thinks may have been stolen.

I've seen letters Mr W's bank sent him about his debit card and PIN. There's no suggestion anything happened other than someone else got hold of his card and PIN and used it to make sure they were able to get hold of any money they applied for.

I've reviewed the information used when the loan with Payday UK was applied for. As well as the account details, date of birth, address and employment information – along with what he was being paid – was also provided.

The date of birth information given was correct and Mr W had only turned 20 at the time the loan was taken out. This is at odds with the employment information. This suggested Mr W was teaching at a school and taking home nearly £1,900 a month. Firstly this seems quite a step for someone of Mr W's age. And I'm also satisfied there's no evidence Mr W was working at the school. His bank has also confirmed they have no record Mr W ever received a salary.

It seems to me this information is either:

- Easily known or able to find out – like his date of birth and address;
- Obtained by getting hold of his card and PIN – like his sort code and account number; or
- False like the employment information.

I'd have expected Payday UK to query information about Mr W's employment as this didn't really tally with what else they knew about him. I can't be certain but there's obviously a possibility Mr W's card was taken by somebody who knows him. They were then able to use what they knew about Mr W when making the fraudulent applications.

I don't believe Mr W applied for these loans and think it's fair Payday UK don't ask him to pay back any money and make sure they remove any record of this loan from his credit file.

As this outcome is different to our adjudicator's, I wrote to Payday UK to explain why I'd come to the decision I had. Payday UK is concerned at the lack of evidence about the fraud. But I'm aware Mr W reported what happened to the police. Based on the evidence I don't think Payday UK has shown Mr W applied for the loan or had any benefit of the money.

my final decision

For the reasons I've given, my final decision is to instruct Instant Cash Loans Limited, trading as Payday UK, to:

- cancel Mr W's loan liability and stop asking him to repay any amount outstanding; and
- remove any detail of this loan from Mr W's credit record.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 15 February 2016.

Sandra Quinn
ombudsman