

complaint

Mr W complains that Express Finance (Bromley) Limited (trading as Payday Express) was irresponsible to lend him money as it should have seen the loans were unaffordable to him.

background

Mr W had three loans, and two top-ups, from Payday Express between October 2011 and August 2012 as follows:

Loan	Date	Amount	Repayment	Repaid	Notes
1	5 Oct 2011	£320	£400	28 Oct 2011	On time
2	3 Nov 2011	£320	£400	21 Dec 2011	Deferred once
3	29 Aug 2012	£150	£187.50	11 Jan 2013	Deferred twice, repayment plan
Top-up	30 Aug 2012	£120	£337.50	11 Jan 2013	
Top-up	31 Aug 2012	£120	£487.50	11 Jan 2013	

Mr W also took out a further two loans in 2010, but Payday Express has said it's not obliged to consider those as they were taken out more than six years ago. Mr W has agreed that this service should only consider the loans from 2011 onwards.

Mr W says he had multiple loans from other short-term finance providers and limited income. He said he also had a gambling issue and if Payday Express had done better checks it would have found he could not afford the repayments.

Payday Express says it asked Mr W for his income and checked his credit record and none of the information indicated the loans were unaffordable. It says Mr W only told it of his financial difficulties when he was having trouble repaying the final loan and Payday Express says it agreed a repayment plan at this point.

Our adjudicator recommended the complaint should be upheld. She didn't think Payday Express had done enough checks before approving any of the loans and was satisfied that, had it done so, it would have found all the loans were unaffordable. She recommended Payday Express should refund interest and charges (plus 8% statutory interest) on all the loans and remove any associated negative information from Mr W's credit file.

Payday Express did not respond.

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 lend responsibly. It should have made checks to make sure Mr W could afford to repay the loans before it lent to him. Those checks needed to be proportionate to things such as the amount Mr W was borrowing, and his lending history. But there was no set list of checks Payday Express had to do.

Loans 1 and 2

Mr W had told Payday Express his income was £800. As the repayments on both these loans were half of that, I consider proportionate checks should have included asking Mr W

about his expenditure and other short-term loans. Had it done so, Payday Express would have found Mr W had borrowed £400 from another short-term loan provider on 5 Sep 2011, for which he deferred repayment on 26 Sep 2011. Mr W then made the £500 repayment on 26 October, but borrowed a further £500 which needed to be repaid in November 2011. He also had outstanding loans with at least one other short-term loan company, so I'm satisfied Mr W could not afford the repayments on either of the first two loans.

Loan 3 and top-ups

Payday Express still had Mr W's income recorded as £800 per month when he applied for his third loan in August 2012. I accept there had been a significant break in his borrowing, and Mr W was borrowing a smaller amount than he had done previously. So I find it reasonable that Payday Express may not have considered Mr W had developed a reliance on such borrowing. Nevertheless, as the scheduled repayment on the third loan was almost £200, I think a proportionate check should have included asking Mr W about his expenditure.

It's not clear from Mr W's bank statements what the majority of his expenditure was for as the outgoings were generally transfers to a family member. However, Mr W gave this service a breakdown of his accommodation, food, utilities and transport costs and they totalled £435. This doesn't seem unreasonable as the net transfers add up to about £540 in July 2012. I can also see expenditure on his phone, credit card and account fees. This comes to about £150 in total in July 2011. So, I'm satisfied his minimum regular monthly expenditure was almost £600. As that leaves just £200 of disposable income, I can't conclude Mr W could afford the repayment on the third loan as it left him with no money for unforeseen expenses.

It follows, therefore, that Mr W could not afford an even higher repayment as a result of the top-up loans. Indeed, I consider Payday Express should have carried out a full financial review by the time Mr W applied for the second top-up. Had it done so, it would have found that, in fact, Mr W had lost his job around this time, had no significant monthly income, was using other short-term loan providers and gambling regularly.

In summary, I can't conclude Payday Express should have approved any of the loans.

my final decision

My decision is that I uphold this complaint. Express Finance (Bromley) Limited (trading as Payday Express) should:

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

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 28 December 2017.

Amanda Williams
ombudsman