

complaint

Mr R complains that Express Finance (Bromley) Limited (trading as Payday Express) gave him payday loans irresponsibly.

background

Mr R had nine loans from Payday Express between March 2011 and December 2012. He said he was also borrowing from other payday lenders. He said the loans made his financial situation worse. Payday Express said it had carried out the affordability checks required at the time.

Our adjudicator recommended that the complaint should be upheld. He thought Payday Express hadn't made proportionate or sufficient checks that any of Mr R's loans were affordable for him. He thought it should have noticed that he was reliant on payday lending and looked further into his circumstances. This would have shown that he had a gambling problem that was made worse by the loans. He thought it should refund Mr R the interest and charges he paid, with interest, and remove any adverse information from his credit file.

Payday Express replied that its credit check didn't show that Mr R was over-indebted. He didn't tell it about his other loans. It thought gaps in his borrowing showed that he wasn't dependent on payday loans.

However, it thought it could have made further checks on three larger loans. It offered to refund interest on these and to remove them from Mr R's credit file. But he declined this offer.

my findings

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

Mr R's first loan was for £500 including interest. When this was repaid, he immediately borrowed £300 including interest. Three months after repaying this, Mr R borrowed £350 including interest. Shortly after repaying this, he borrowed £500 including interest.

There was then a gap of over five months before Mr R took out his fifth loan for £500 which he topped up to £625 including interest. There was then a gap of four months before the next loan of £312.50. The last three loans for £750, £187.50 and £500 were taken back to back. Mr R repaid all his loans.

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

Mr R told Payday Express that his income was £1,700 after tax. It said it made a credit check, but I can't see what this found.

But Mr R's first loan was large compared to his income. So I would have expected Payday Express to check his outgoings and his other financial commitments as well as his income. But I can't see that it did this, so I don't think its checks were proportionate or sufficient.

I've looked at Mr R's bank statements from the time to get this information, but Payday Express could easily have asked Mr R for it. I can see that his usual living expenses were £950 a month leaving him with £750, based on his stated income. But his commitment for other loan repayments in the month his first Payday Express loan was due was £400. So Mr R wouldn't have had enough left to repay Payday Express. So I don't think the loan should have been approved as sufficient checks would have shown that it was unaffordable.

Mr R's finances worsened after this. He was borrowing more to repay existing payday loans. I think this should have been evident from the credit checks Payday Express made. He was also borrowing regularly from Payday Express. By the time of his third loan, I think Payday Express should have looked more closely at Mr R's other borrowing.

Mr R has provided us with his credit file and bank statements from the time. I think that if Payday Express had made further checks, it would have seen, as I have, that Mr R was dependent on short-term and other loans. And so it would then have declined to give him further loans.

There was a five month gap between Mr R's fourth and fifth loans. But I don't think that this was sufficient for Payday Express to reasonably consider that any previous financial difficulties may have been resolved. It hadn't made enough checks on affordability previously. And so I can't see how it knew Mr R would be able to repay his new loans comfortably without making full enquiries into his circumstances.

So I agree with the adjudicator that all of Payday Express' lending to Mr R was irresponsible. It didn't make proportionate or sufficient checks that the loans were affordable. If it had done so, it would have seen Mr R's dependence on payday lending and inability to repay its loans.

Payday Express has now offered to refund Mr R's interest on three loans and to remove them from his credit file. But I don't think this goes far enough.

my final decision

My final decision is that I uphold this complaint. I require Express Finance (Bromley) Limited (trading as Payday Express) to do the following:

1. Refund Mr R the interest and charges he paid on all his loans, adding interest at 8% simple per annum from the date of payment to the date of settlement.
2. HM Revenue & Customs requires Payday Express to withhold income tax from that interest. It must give Mr R a certificate showing how much it's taken off if he asks for one.
3. Remove any adverse information relating to these loans from Mr R's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 10 May 2017.

Phillip Berechree
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