

complaint

Ms H complains that Instant Cash Loans Limited (trading as Payday Express) wrongly lent her money she couldn't afford to pay back.

background

Ms H took out a number of payday loans with Payday Express. 15 of the loans were taken out between September 2005 and August 2009. The last loan was taken out in October 2009. Ms H said that Payday Express didn't carry out proper affordability checks and if it had done it would have seen that the loans were unaffordable. This led to a spiral of debt and Ms H was unable to repay the last loan on time and entered into a repayment plan. Ms H complained to the business and accepted a settlement of £262.50 in full and final settlement of the complaint in December 2015.

Our adjudicator didn't recommend that the complaint was upheld. He thought that the first loans were taken out too long ago for this service to be able to consider any complaint. Looking at the last loan he thought that the settlement accepted by Ms H was fair and reasonable and he didn't think Payday Express should be asked to pay any more. Ms H didn't agree and said in summary that the amount didn't even cover the interest and didn't reflect the trouble and upset caused by the irresponsible lending.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I have reached the same conclusions as the adjudicator for broadly the same reasons.

I can see that the first loan was taken out on 5 September 2005 and further applications were made up to 5 August 2009. Ms H didn't complain about these loans to Payday Express until September 2015. This is over six years since the loans were taken out. This service doesn't have a free hand to consider all complaints that are referred to us and the rules say that we can't consider a complaint if it was referred to us more than six years after the event or three years after Ms H ought to have known that she had a complaint. I can't see any exceptional reason why Ms H couldn't have complained sooner. The business has objected this service looking at the complaint because of the time that has passed and so for these reasons I can't consider these loans.

Ms H took out her final loan on 27 October 2009 and complained within the 6 year time limit. The loan was repaid in August 2010 after a repayment plan was set up. When Ms H complained about this loan to Payday Express it said that it was prepared to refund some of the charges relating to the deferral of this loan in full and final settlement of the complaint. A settlement form was attached to the letter which states, "I accept the proposed resolution of a restitution payment of £262.50 in full and final settlement of my complaint/claim...". Ms H has signed the form, returned it and the money has been paid to her. I think that the terms of the letter are clear and if Ms H wasn't happy with the offer the letter explained that she could complain to this service and she didn't have to accept it. I don't think that it would be fair or reasonable for this service to look at the complaint when Ms H has already been paid an agreed amount in settlement of it.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 29 March 2016.

Emma Boothroyd
ombudsman