

complaint

Ms C complains that MEM Consumer Finance Limited (trading as Payday UK) made loans to her without checking that she could afford them.

background

Ms C took a total of five payday loans from Payday UK between February and September 2012. She believes it lent irresponsibly to her. She says it continued to grant her loans when it should have been clear that she was dependant on borrowing. She says Payday UK didn't ask to see her bank statements. And it didn't ask whether she had any other payday loans at the time. As it was, she had lots, and they led her into spiralling debt. Ms C says that if Payday UK had carried out a credit check it would have seen this, and would have realised that she was taking out loans to pay off other loans.

Ms C would like Payday UK to refund all interest on the loans, and the charges Payday UK applied for missed payments. She's also upset that Payday said incorrectly that she had a gambling addiction.

Payday UK says it has to rely on customers providing accurate information for it to assess whether loans are affordable for them. It says that the information Ms C provided when she applied, along with the internal and external checks it carried out, indicated that she could afford the loan repayments. But it offered to waive the contractual interest on the fifth loan. This amounts to £58. It's also offered to set up an affordable repayment plan for Ms C to repay the £200 which is outstanding. And it's provided her with details of free debt management organisations that can help people in financial difficulty.

Our adjudicator thought it had been reasonable of Payday UK to make the first three loans, on the basis of the amounts borrowed and Ms C's declared income. But she didn't think Payday UK could have known whether the fourth and fifth loans were affordable without further checks and details of Ms C's outgoings and disposable income. And she thought that if it had made further checks, it would probably have been apparent that Ms C was dependant on the loans and may have been in financial difficulties. So she recommended that Payday UK should refund all interest and charges on the fourth and fifth loans, with simple interest and should remove any information about those loans from Ms C's credit file. She also recommended that Payday UK pay Ms C £50 to apologise for its incorrect comment.

Payday UK says that it allowed customers to defer payment if they faced an unexpected bill or other financial commitment, so that they could repay when they were better able to do so. So the fact that repayment was deferred doesn't necessarily indicate that the customer was experiencing financial difficulty, or that additional checks were needed.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Ms C and to Payday UK on 8 August 2016. I summarise my findings:

- I agreed with the adjudicator that if Payday UK had carried out appropriate checks, it ought to have been clear to it that Ms C was unlikely to be able to afford to repay the fourth and fifth loans. Although the third loan was for less than the previous loan, Ms C hadn't repaid it until a month after the due date. In spite of that, Payday UK granted her

the fourth loan for £350 just three days later. And again, she had to roll it over for a month because she couldn't afford to repay it on the due date. The final loan, for £200, was made less than a fortnight after Ms C repaid the fourth loan. She's been unable to repay it.

- But I wasn't convinced that Payday UK lent responsibly when it made the first three loans either. It's provided a copy of the data from the credit search it carried out before making the first loan. It appears to have relied on that search when it made the second loan too. The search showed that Ms C had a large number of active accounts. She was five months in arrears on one of them. And she'd borrowed more than £700 in the previous three months. What's more, the credit check data appears to show that Ms C's total monthly repayments on active fixed-term accounts already exceeded her monthly income. And a further credit search carried out before Ms C took out the third loan suggests that her position had deteriorated further by then.
- I acknowledged that Ms C did, in fact, manage to repay both the first and second loans on time. But even though the first loan was for a relatively low amount, I thought Ms C's credit file suggested that she was dependant on borrowing. And I thought that Payday UK should have checked what her monthly income and expenditure were before agreeing to lend. If it had done so, I thought it likely that it would have been clear that the loan wasn't affordable for Ms C, given her existing commitments. In the circumstances, I didn't think it was responsible of Payday UK to make any of the loans to Ms C.
- I thought take the actions listed under the heading "my final decision" below, to resolve Ms C's complaint.

further submissions

Both Ms C and Payday UK have confirmed that they accept my provisional decision.

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 don't see any reason to depart from the conclusions in my provisional decision.

my final decision

My decision is that I uphold this complaint. I require MEM Consumer Finance Limited (trading as Payday UK) to:

- pay (not credit) Ms C £50 to apologise for its incorrect comment;
- refund all interest and charges it applied to the five loans Ms C took out with it (applying the refund first to reduce the amount still outstanding, with any amount left over to be paid directly to Ms C);
- add 8% simple annual interest to those amounts from the dates on which Ms C paid them until the date of settlement; and
- remove any information about the loans from Ms C's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 26 September 2016.

Juliet Collins
ombudsman