

The complaint

Mr B says Western Circle Limited (trading as Quick Loans Express) irresponsibly lent to him.

What happened

This complaint is about six instalment loans Quick Loans Express provided to Mr B between August 2018 and May 2019. Mr B borrowed amounts ranging between £200 and £450 to be repaid in two monthly instalments. There were no significant breaks between the loans and they didn't overlap. Mr B repaid his later loans very shortly after taking them out. Mr B repaid all his loans. Quick Loans Express offered to refund the interest Mr B paid on his last three loans, as a gesture of goodwill. But Mr B was unhappy with this.

Our adjudicator upheld Mr B's complaint in part and thought the loans from loan four onwards shouldn't have been given. Quick Loans Express disagreed and it offered redress for loans five and six. Mr B's representative didn't respond to this offer, so the complaint was passed to me for a final decision.

What I've decided – and why

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

We've set out our general approach to complaints about short-term lending - including all of the relevant rules, guidance and good industry practice - on our website.

Quick Loans Express needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr B could repay the loans in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Quick Loans Express should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a customer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

I think that it is important for me to start by saying that Quick Loans Express was required to establish whether Mr B could sustainably repay his loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the Consumer Credit Sourcebook ("CONC") defines sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr B's complaint.

Quick Loans Express asked Mr B for information about his income and expenditure and it carried out credit checks. Mr B said his monthly income was £3,200 and his monthly expenditure was about £1,000. For loans one to three, there was nothing untoward in Quick Loans Express' credit checks that should have prompted further checks.

I think these checks went far enough for loans one to three. Given the loan amounts, what was apparent about Mr B's circumstances at the time and his history with Quick Loans Express, I don't think it would've been proportionate to ask him for the amount of information needed to show the lending was unsustainable. There wasn't anything in the information Mr B provided or the information Quick Loans Express should've been aware of, which meant it would've been proportionate to start verifying what Mr B was saying. So I can't say it was wrong for Quick Loans Express to have provided loans one to three.

But, as our adjudicator explained, Quick Loans Express' checks for loan four would most likely have shown that Mr B was having problems managing his money. This was because Quick Loans Express' credit check showed that when Mr B asked for loan four, and his further loans, he already had three or more short term loans outstanding with other lenders. So I think Quick Loans Express should have realised that Mr B would be unlikely to be able to sustainably repay loan four or any subsequent loans.

I also think that Quick Loans Express should have made better checks for loans five and six. Mr B had been borrowing continuously for eight months and the amounts he borrowed remained the same for his last three loans. I think Quick Loans Express should then have looked more closely at Mr B's finances to ensure he was using the loans as they were intended. And, from the information Mr B has provided, I think better checks would have shown that Mr B was gambling heavily. I think if Quick Loans Express had seen this it wouldn't have provided further loans.

So I think Quick Loans Express was wrong to have provided loans four to six.

Putting things right

To put things right for Mr B, I think Quick Loans Express should:

- refund all interest and charges Mr B paid on loans four to six;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement†;
- remove any negative information about loans four to six from Mr B's credit file;

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

My final decision

For the reasons given above, my final decision is that I'm partially upholding Mr B's complaint. I require Western Circle Limited (trading as Quick Loans Express) to pay Mr B compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 22 July 2020.

Phillip Berechree

Ombudsman