The complaint

Mr J says Zippa Limited lent to him irresponsibly. He says that he needed to borrow again shortly after lending and he tried to borrow increasing amounts. He thinks Zippa didn't make adequate checks before lending.

What happened

This complaint is about six instalment loans Zippa provided to Mr J between July 2017 and June 2018.

Loan	Date Taken	Instalments (monthly)	Amount	Date Repaid
1	13/07/2017	3	£150	18/07/2017
2	24/07/2017	3	£150	21/08/2017
3	26/08/2017	5	£250	09/10/2017
4	23/10/2017	5	£250	21/11/2017
5	12/12/2017	7	£250	25/04/2018
6	08/06/2018	5	£150	25/10/2018

Our adjudicator partially upheld the complaint. He thought that Zippa was wrong to have approved loans 5 and 6.

Zippa disagreed with the adjudicator's opinion. So the complaint has been passed to me. Zippa did provide a fairly detailed response to the opinion which I won't summarise here as much of it was a reproduction of the regulator's rules and guidance. But I have thought about what it said and I have addressed the key issues it raised below.

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.

Zippa 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 J 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 Zippa 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.

And the loan payments being affordable on a strict pounds and pence calculation might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. The industry regulator 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 J's complaint. I've decided to uphold Mr J's complaint in part and have explained why below.

Mr J didn't disagree with our adjudicator's opinion about loans 1 to 4. Because of this I don't think there is any ongoing disagreement about these loans. So I won't be making a decision about this lending. But they were part of the borrowing relationship Mr J had with Zippa. So they are something I will take into account when considering the other loans he took.

why I don't think Zippa's checks were proportionate for loans 5 and 6 and what proportionate checks would've shown

By loan 5 Mr J was showing a pattern of taking loans, repaying them relatively quickly, and then reborrowing. Whilst the amounts he borrowed weren't high Mr J did apply to borrow higher amounts which Zippa didn't approve.

I accept that not approving some of Mr J's loans, and restricting the amount he borrowed, shows a degree of responsibility. But by loan 5, in my view, it is fairly clear that Mr J was trying to borrow fairly high levels of short term credit. And this had been the case for around five months.

So I think Zippa could've realised at that time that Mr J may have some longer term financial problems rather than just using the loans to help with a temporary cash flow problem. Zippa should've also become concerned about whether it knew enough about Mr J's true financial situation.

I think that it would've been proportionate to fully review Mr J's financial situation at this point. And I think that Zippa needed to verify the information it found out, and what Mr J had declared, where possible. This is to make sure Mr J was in position to make the repayments sustainably.

I don't think Zippa did this. As it says it asked Mr J about his income and expenditure and looked at some information on his credit file. I don't think this was enough. So I need to think about what Zippa would've seen if it had carried out proportionate checks.

Mr J has provided some information about his financial circumstances at the time loans 5 and 6 were approved. This includes his bank statements. I accept that this isn't exactly what Zippa would've seen at the time. But I think it would've found out similar information if it had made proportionate checks, so I think it's reasonable to rely on it.

As has been established, and not disputed, Mr J was having problems managing his money. His ordinary outgoings were relatively high. And he was also borrowing and repaying money to other short term lenders.

And a substantial portion of Mr J's income was going on gambling. Which would mean, to some extent, that Mr J's ability to repay the loans was dependent on uncertain factors such as being able to borrow further and gambling returns.

I think that Zippa would've found out this information if it had made proportionate checks. And I think Zippa would've seen Mr J wasn't likely to be able repay the loans in a sustainable way. So I think that Zippa shouldn't have given loans 5 and 6 to Mr J and I think he's lost out as a result of this.

So I'm upholding Mr J's complaint about loans 5 and 6.

And to be clear to Zippa, as it has asked for this clarity, this approach is reflected in the guidance and regulations issued by the FCA. Particularly in, for example:

'CONC 5.2.4G02/11/2015RP(2) A firm should consider what is appropriate in any particular circumstances dependent on, for example, the type and amount of the credit being sought and the potential risks to the customer. The risk of credit not being sustainable directly relates to the amount of credit granted and the total charge for credit relative to the customer's financial situation.'

The key word in this paragraph, and much of the guidance, is sustainable. It isn't enough, as I say above, to look at affordability alone. Put simply if a consumer is borrowing repeatedly over time it is often the case that a business would need to make further checks to make sure the loans are sustainable and to get to the bottom of why short term, expensive, credit is being used over a longer period of time.

The information Zippa had, in my opinion, points to the need for more rigorous checks over time. Zippa didn't do this. It relied on the same checks throughout which I don't think was right here.

Putting things right

- refund all interest and charges Mr J paid on loans 5 and 6;
- 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 5 and 6 from Mr J's credit file;

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

My final decision

For the reasons I've explained, I partly uphold Mr J's complaint.

Zippa Limited should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 13 August 2020.

Andy Burlinson
Ombudsman