

The complaint

Mrs C complains that Advance Payment Solutions Limited (trading as Cashplus) was irresponsible to lend to her.

What happened

Mrs C had 11 loans from Cashplus between December 2015 and September 2016:

<u>Loan</u>	<u>Date</u>	<u>Amount</u>	<u>Term</u>	<u>Repayment</u>	<u>Due</u>	<u>Repaid</u>
1	21 Dec 2015	£50	2d	£50.80	24 Dec 2015	On time
2	31 Dec 2015	£50	29d	£61.60	30 Jan 2016	28 Jan 2016
3	5 Feb 2016	£100	23d	£118.40	29 Feb 2016	On time
4	1 Mar 2016	£200	30d	£248.00	1 Apr 2016	31 Mar 2016
5	2 Apr 2016	£200	26d	£241.60	29 Apr 2016	On time
6	2 May 2016	£200	28d	£244.80	31 May 2016	On time
7	5 Jun 2016	£200	25d	£240.00	1 Jul 2016	30 Jun 2016
8	4 Jul 2016	£200	27d	£243.20	1 Aug 2016	18 Jul 2016
9	19 Jul 2016	£200	10d	£216.00	30 Jul 2016	29 Jul 2016
10	4 Aug 2016	£200	27d	£243.20	1 Sep 2016	31 Aug 2016
11	3 Sep 2016	£200	26d	£241.60	30 Sep 2016	On time

Mrs C also had two Credit Builder accounts with Cashplus – from December 2015 and from September 2018. Mrs C has agreed that this complaint is about the loans detailed above.

Mrs C says she was already struggling financially and in an Individual Voluntary Arrangement (IVA) when she applied for the loans. She says she found the repayments really difficult and eventually couldn't sustain them or her Credit Builder payments. Mrs C says it negatively affected her credit file and caused her a lot of stress.

Cashplus says it carried out rigorous affordability analysis including monthly credit reports and a review of other outstanding debt. It says it took into account Mrs C's monthly income and its checks did not indicate the lending was unaffordable. As well as the above loans, Cashplus says Mrs C had two Credit Builder accounts – one from December 2015 and the other from September 2018. It says the first was settled in January 2017, whilst the second defaulted in May 2019. Cashplus says no error was made in approving any of the credit.

Our adjudicator recommended that the complaint should be upheld. He found it likely that Cashplus's checks would have shown Mrs C was in an IVA before loan 1 and so should not have approved any of the loans. He added that Mrs C's pattern of lending itself indicated the loans were unsustainable by loan 7. Our adjudicator recommended that interest and charges should be refunded on all the loans (plus 8% interest) and that adverse information about

loans 1 to 6 should be removed from Mrs C's credit file. He further recommended that loans 7 to 11 should be removed from Mrs C's credit file in their entirety.

Cashplus responded to say, in summary, that it did see an IVA on Mrs C's credit record but that it was over 18 months old with no indication of an outstanding balance. It added that Mrs C had no other adverse information on her file and she met its underwriting criteria for the lending. Cashplus says Mrs C repaid all the loans on time which indicates it was a fair lending 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.

Cashplus 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 Mrs C 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 Cashplus 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 net 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 during which a customer's 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 Cashplus was required to establish whether Mrs C could sustainably repay her loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course, 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 the arguments, evidence and information provided in this context and what this all means for Mrs C's complaint.

Loans 1 to 6

Cashplus had information about Mrs C's income at the time of loan 1 and also carried out a credit check. I accept it says its affordability checks showed Mrs C met underwriting criteria, but I consider the information it saw on her credit file should have led Cashplus to have carried out further checks. I say that because it acknowledged it saw an IVA from 18 months earlier, so I find it should have verified its status. If it had done so, it would have found the IVA was active from June 2014 and was still active throughout the lending, until March 2020.

So I consider Cashplus should have reasonably known Mrs C was already in an insolvency arrangement and that it was irresponsible to have approved further lending.

Loans 7 to 11

I've also looked at the overall pattern of Cashplus's lending history with Mrs C, with a view to seeing if there was a point at which Cashplus should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so Cashplus should have realised that it shouldn't have provided any further loans.

Given the particular circumstances of Mrs C's case, I think that this point was reached by loan 7. I say this because:

- Mrs C had applied for seven loans within six months with few gaps between loans;
- Mrs C wasn't making any real inroads to the amount she owed Cashplus. Loans 4 to 11 were all for the same amount;
- Mrs C had paid a lot of interest to, in effect, service a debt to Cashplus for an extended period.

I think that Mrs C lost out because Cashplus continued to provide borrowing from loan 7 onwards because:

- these loans had the effect of unfairly prolonging Mrs C's indebtedness by allowing her to take expensive credit intended for short-term use over an extended period;
- the sheer number of loans was likely to have had negative implications on Mrs C's ability to access mainstream credit and so kept her in the market for high-cost loans.

So I'm upholding Mrs C's complaint about loans 1 to 11 and Cashplus must put things right.

Putting things right

In deciding what redress Cashplus should fairly pay in this case I've thought about what might have happened had it refused to lend to Mrs C, as I'm satisfied it ought to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Mrs C may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between her and this particular lender (with regard to the Credit Builder account) which she may not have had with others. If this wasn't a viable option, they may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, they may have decided to approach a third-party lender with the same application, or indeed a different application (i.e. for more or less borrowing). But even if they had done that, the information that would have been available to such a lender and how they would (or ought to have) treated an application which may or may not have been the same is impossible to now accurately reconstruct. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Mrs C in a compliant way at this time.

Having thought about all of these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Mrs C would more likely than not have taken up any one of these options. So it wouldn't be fair to now reduce Cashplus's liability in this case for what I'm satisfied it has done wrong and should put right.

My final decision

My decision is that I uphold this complaint. Advance Payment Solutions Limited (trading as Cashplus) should:

- A. Refund all the interest and charges Mrs C paid on loans 1 to 11 with interest of 8% simple a year from the date they were paid to the date of settlement*
- B. Remove any adverse information recorded on Mrs C's credit file in relation to loans 1 to 6. The overall pattern of Mrs C's borrowing from loan 7 onwards means any information recorded about these loans is adverse, so Cashplus should remove loans 7 to 11 entirely from Mrs C's credit file.

*HM Revenue & Customs requires Cashplus to deduct tax from this interest. Cashplus should give Mrs C a certificate showing how much tax it's deducted, if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 6 April 2022.

Amanda Williams

Ombudsman