

The complaint

Miss B complains Novaloans Ltd trading as cash4unow (Novaloans) gave her loans without carrying out sufficient affordability checks.

What happened

Miss B was advanced three loans between June 2021 and March 2022. A summary of her borrowing can be found below.

loan number	loan amount	agreement date	repayment date	number of monthly repayments	highest repayment
1	£150.00	09/06/2021	28/09/2021	4	£58.09
2	£200.00	28/09/2021	28/03/2022	6	£66.16
3	£500.00	28/03/2022	28/09/2022	6	£166.65

Following Miss B's complaint Novaloans wrote to her to explain why it wasn't going to uphold the complaint because it had carried out proportionate affordability checks before the loans were granted. Unhappy with this response, Miss B referred the complaint to the Financial Ombudsman.

The case was then considered by an adjudicator, and she didn't think Miss B's complaint should be upheld because in her view, Novaloans carried out proportionate checks which showed it Miss B would be able to afford these loans.

Miss B didn't agree with the adjudicator's assessment because Novaloans hadn't checked the information she had provided was correct. She also said that she was using the loans to gamble and so the information may have been altered and her medical condition hadn't been considered nor the impact on her mental health.

The adjudicator replied to Miss B and outlined why these points hadn't changed her mind about the case. She didn't think it had yet reached the point where Novaloans needed to verify the information Miss B had provided.

As no agreement has been reached, the case has been passed to me to resolve.

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 this type of lending - including all the relevant rules, guidance and good industry practice - on our website.

Novaloans had to assess the lending to check if Miss B could afford to pay back the amounts she'd borrowed without undue difficulty. It needed to do this in a way which was

proportionate to the circumstances. Novaloans' checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Miss B's income and expenditure.

With this in mind, I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Novaloans should have done more to establish that any lending was sustainable for Miss B. These factors include:

- Miss B having a low 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 amounts to be repaid being especially high (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- Miss B having a large number of loans and/or having these loans over a long period of time (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);
- Miss B coming back for loans shortly after previous borrowing had been repaid (also suggestive of the borrowing becoming unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable for Miss B. The adjudicator didn't think this applied to Miss B's complaint.

Novaloans was required to establish whether Miss B could *sustainably* repay the loans – not just whether she technically had enough money to make her repayments. Having enough money to make the repayments could of course be an indicator that Miss B was able to repay her loans sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that payments are sustainable if they are made without undue difficulties and in particular, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Miss B's complaint.

Loan 1

As part of her application, Miss B declared a monthly income of £1,370. She also declared monthly outgoings of £1,108.

Novaloans believed, based on the information Miss B provided that she had around £262 a month in disposable income – and after the loan repayment was factored in Miss B would've had around £204 left over to cover any unexpected costs.

Based solely on the information Miss B declared to Novaloans – and information in my view it could've relied on, it would've been reasonable for it to believe Miss B would be able to afford her monthly repayments.

Novaloans has also said it carried out a credit search and it has provided the Financial Ombudsman with a summary of these results – which can be found in its final response letter. It is worth saying that there is no requirement within the regulations at the time to have carried out a credit search let alone one to a specific standard. But what

Novaloans couldn't do is carry out a credit search and then not react to any concerning information that it may have seen.

Having reviewed the credit check results, Novaloans knew that Miss B had a satisfied County Court Judgement. However, based on what I've seen there wasn't anything else that would've been of a concern to Novaloans such that it would've prompted it to have carried out further checks.

Miss B had seven active credit accounts, no defaulted or delinquent accounts within the last 12 months – it is possible that there were and are defaults recorded before this date, but Novaloans didn't appear to have asked for this information. It also knew that Miss B's total outstanding debt was around £1,787.

Thinking about the credit checks results as well as the income and expenditure information and that there was nothing else in the information that I've seen that would've led Novaloans to believe that it needed to go further with its checks it carried out – such as verifying the information Miss B had provided. So, I don't think that Novaloans needed to have reviewed Miss B's bank statements.

Given it was early on in the lending relationship, I think it was reasonable for Novaloans to have relied on the information Miss B provided. There also wasn't anything else to suggest that Miss B was having financial difficulties or that the loan repayments would be unsustainable for her. So, I'm not upholding Miss B's complaint about this loan.

Loans 2 and 3

Loan 2 was taken on the same day that loan 1 was repaid. Loan 3 was taken on the same day loan 2 was repaid. Miss B's capital borrowing also increased with each loan.

Novaloans has shown the same sort of checks were carried out before these two loans were approved. For both it asked Miss B about her income and expenditure. Miss B declared the same income for loan 2 as she had done for loan 1, and this had increased to £1,687 for the third loan.

Miss B declared monthly outgoings of £711 for loan 2 and £771 for loan 3. Based on what Miss B told Novaloans it was reasonable for it to have believed she could've afforded her monthly loan repayments of £66 and £166.

Credit searches were also carried out – and the same caveats about the information Novaloans received still apply – as I detailed above.

There was still no adverse credit file information reported with the last 12 months in relation to either a default or delinquency. However, Novaloans did know that Miss B's overall indebtedness to other creditors had increased. By the time of loan 3, she owed other creditors just over £5,000 – a significant increase compared to her indebtedness at loan 1.

However, even though I'm aware of this increase, Miss B appeared to be managing her other credit commitments without any undue difficulties. And the information given to Novaloans suggested the increase in the borrowing wasn't connected to her taking out other payday loans.

And even taking account of this increase in overall debt – I still think it was reasonable for Novaloans to believe that Miss B wasn't in financial difficulties and could sustainably repay these loans.

I'm sorry to hear about Miss B's health problems and I know things must have been difficult for her. But given the number of loans and the checks that Novaloans carried out, firstly I think it was reasonable for it to have relied on the information she gave. And secondly, in my view, it hadn't yet reached the point in the lending relationship where Novaloans needed to have verified the information she had provided – perhaps through her bank statements. As a result, Novaloans wouldn't have been aware of Miss B's gambling.

I'm therefore not upholding any of Miss B's loans. I appreciate this will be disappointing for her, but I do hope my explanation has been useful in detailing why I've reached the decision that I have.

My final decision

For the reasons I've explained above, I'm not upholding Miss B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 7 April 2023.

Robert Walker
Ombudsman