DRN-4123668

The complaint

Mr C complains through a representative that Stagemount Limited trading as Quidmarket (Quidmarket) gave him loans he couldn't afford to repay.

What happened

Mr C was granted three loans from Quidmarket between August 2017 and February 2021. I've outlined a summary of his borrowing below.

loan number	loan amount	agreement date	repayment date	term (months)	monthly repayment
1	£300.00	24/08/2017	03/11/2017	6	£99.99
2	£500.00	26/02/2020	31/07/2020	6	£146.52
3	£400.00	20/02/2021	outstanding	6	£119.18

Following Mr C's representative's complaint, Quidmarket issued its final response letter (FRL). In summary, it said it had carried out proportionate checks which showed these loans were affordable. Although, Quidmarket didn't uphold the complaint, as a gesture of goodwill it offered to remove these loans from Mr C's credit file. In addition, it offered to waive the interest on Mr C's final loan leaving a capital balance to repay of £161.64.

Mr C's representative didn't accept the offer and instead his representative referred the complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator who in his assessment thought none of the loans ought to have been granted. He said the information Quidmarket had from its credit checks indicated that Mr C already had at least seven outstanding payday loans. The adjudicator concluded that Mr C couldn't afford his loan repayment in a sustainable manner.

Quidmarket didn't agree with the outcome. It said the adjudicator hadn't taken account of the information contained within the final response letter. It also highlighted the gaps between each loan.

As no agreement could be reached the complaint was passed to me for a decision. I then issued my provisional decision explaining the reasons why I was intending to uphold Mr C's complaint in part and about loans 1 and 2 only.

Both parties were given an opportunity to provide any further evidence for consideration, but this needed to have been received no later than 5 May 2023.

Neither Mr C (his representatives) or Quidmarket responded to or acknowledged the provisional decision.

A copy of the background to the complaint and my provisional findings follows this in smaller font and forms part of this 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 the relevant rules, guidance and good industry practice - on our website.

Quidmarket had to assess the lending to check if Mr C could afford to pay back the amounts he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Quidmarket's checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr C'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 Quidmarket should have done more to establish that any lending was sustainable for Mr C. These factors include:

- Mr C 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);
- Mr C 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);
- Mr C 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 Mr C.

Quidmarket was required to establish whether Mr C could sustainably repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr C was able to repay his 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 Mr C's complaint.

What I said in the provisional decisions

Loan 1

Quidmarket has shown, that as part of the affordability assessment it asked Mr C for details of his income and expenditure. Mr C's income has been recorded as being £2,700 per month.

Mr C said his monthly outgoings were £2,300 – this was spread across a number of different variables, such as rent, bills and outstanding credit commitments. This left disposable *income of around £400 per month. Based on the information Mr C provided the loan looked affordable for him.*

Before the loan was approved Quidmarket also carried out a credit search and it has provided the Financial Ombudsman with a copy of the results it received from the credit reference agency. I want to add that although Quidmarket carried out a credit search there isn't a regulatory requirement to do one, let alone one to a specific standard. But what Quidmarket couldn't do, is carry out a credit search and then not react to the to the information it received – if necessary.

Having reviewed the credit checks it new that Mr C had debts of just over £11,700 and he was using 104% of his available credit – indicating that he was over his credit limit on one or more account(s).

Quidmarket also knew of an active County Court Judgment – but this had been recorded against Mr C around four years before this loan was approved, and so I don't think, in this case, Quidmarket needed to have been concerned by it.

It also knew, in total that Mr C had defaulted on five credit accounts between June 2013 and April 2016. This would indicate to Quidmarket that over a number of years, Mr C had problems keeping on top of his repayments.

Quidmarket was also on notice that Mr C was taking out new credit, after previous loans had been repaid. I say this because in the month before this loan was approved, Mr C had repaid three payday loan accounts and one home credit account.

But the time the loan was approved, Quidmarket knew that Mr C had four outstanding payday loans, two home credit accounts, two credit cards and a personal loan. The total amount Mr C was committed to paying these creditors was over £840 per month.

If you substitute the declared figure Mr C gave to Quidmarket as part of his application for credit commitments with the figure above, which Quidmarket knew about because it had the results of the credit search, then this brings Mr C's total monthly outgoings to £2,742. This is more than Mr C's declared income.

Clearly, this sum is more than Mr C's declared income and so he wasn't in any position at all to take on any further borrowing because the loan wasn't affordable or sustainable for him. I am therefore proposing to uphold Mr C's complaint about this loan.

Loan 2

As Quidmarket pointed out there were gaps between the loans. There was a period of 27 months where Mr C did not borrow from Quidmarket. Given this significant break in borrowing, I do think this meant when Mr C returned for loan 2, Quidmarket was entitled to treat him as if he was a new customer – and all of the implications that has for the proportionate nature of the checks.

Quidmarket carried out the same checks before it granted this loan as it had done so for loan 1. Mr C declared the same income as before - £2,700 and outgoings of £2,150. Leaving disposable income of around £550 for him to make his repayment of around £147. As before, based solely on the income and expenditure details Quidmarket could've been confident that the loan was affordable.

However, I've also looked at the credit check results that were provided to Quidmarket which to me show a deterioration of his financial position. Mr C had around £14,100 of existing debt spread across 28 accounts. Of which six had been opened within the last six months.

According to the first page of the results, he was also utilising 215% of his resolving / credit budget accounts. This would indicate that Mr C was significantly over his agreed credit limits on one or more account and therefore a sign he was already struggling to repay his existing *credit.*

In terms of the defaulted accounts, Mr C now had 12 such accounts on his credit file. Two had been reported within the last year (March and May 2019) and nine had been reported since Mr C had taken his first loan. The defaulted accounts were a combination of home credit loans, payday loans, credit cards and telecommunication contracts. Indeed, the most recent default appears to have been on a payday loan account.

On top of this, two home credit accounts were also marked as being in delinquency – but given the outstanding balance on these accounts these were also likely to be in a position to be defaulted as well. Clearly, Mr C's financial position had deterioration during the time that he was repaying his previous loan as well as after the loan had been repaid.

As when loan 1 was advanced there were indicators that Mr C was still using payday loans – despite this type of credit being intended for short term use because he repaid two such accounts at the end of 2019.

Looking at the outstanding credit accounts, I can understand why Quidmarket thought this loan was affordable. However, as I've said above, a loan being affordable is only part of the consideration. Quidmarket also had to make sure the loan was sustainable for Mr C. And the results of the credit search indicate to me that it wasn't.

Overall, given the increase in debt, the number and scope of the defaults, and the fact that Mr C was still using payday loans, some two years after Quidmarket was aware he was using such products, has led me to conclude that this loan wasn't sustainable for him. And so, I am intending to also uphold loan 2.

Loan 3

There is another gap large enough to break the chain of borrowing. Which means, although this was Mr C's third loan, Quidmarket could treat it as loan 1 in a new lending chain. I've kept that in mind while thinking about whether the checks were proportionate.

Quidmarket has shown that as part of the affordability assessment it asked Mr C for details of his income and expenditure. Mr C's income has been recorded as being £1,300 per month. Quidmarket says Mr C's income was verified with a copy of his payslip although, a copy of the payslip hasn't been provided. However, Mr C for this loan also declared that he received £1,600 per month in either benefit(s) or pensions(s). And it does look like Quidmarket took account of this – so this led to total income of £2,900.

Mr C declared total outgoings of £2,550 – leaving disposable income of £350 per month. Again, the loan looked affordable. Although, given the information contained within the application data provided by Quidmarket it isn't clear why in the final response letter it said that Mr C had minus disposable income of £1,250.

A credit search was also carried out before this loan was approved, and this showed a significant change in Mr C's financial position. Mr C had 9 open accounts with debts of around £5,565. A significant decrease on the total debt only a year before. Quidmarket was also aware that Mr C had only opened one new credit account within the previous six months.

Mr C had some current accounts, two personal loans – which were not payday and / or instalment loans, one credit card and a couple of hire purchase agreements. Even taking account of these repayments the loan looked affordable and sustainable for Mr C.

For loan 3, Quidmarket carried out a proportionate check which demonstrated to Quidmarket that Mr C could afford his loan repayments, as such as I am intending to conclude that no error was made when this loan was granted.

Response to the provisional decision

As neither party has provided any new information or further comments for my consideration then I see no reason to depart from the findings that I made in the provisional decision, and which are repeated above.

The credit check results Quidmarket received for loan 1 showed he didn't have any disposable income to be able to take on further borrowing. For loan 2, the information provided by the credit reference agency indicated Mr C was in financial difficulties given he was utilising more than his credit limit on a number of account(s).

However, due to the break in lending, a proportionate check was carried out when loan 3 was granted which demonstrated to Quidmarket Mr C would be able to afford his repayments. This loan therefore looked affordable and is not upheld.

Mr C's complaint should be upheld about loans 1 and 2 and I've outlined below what Quidmarket needs to do in order to put things right for him.

Putting things right

In deciding what redress Quidmarket should fairly pay in this case I've thought about what might have happened had it not lent loans 1 and 2 to Mr C, as I'm satisfied it ought not to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Mr C may have simply left matters there, not attempting to obtain the funds from elsewhere. 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 reconstruct now accurately. 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 Mr C in a compliant way at this time.

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

Quidmarket shouldn't have given Mr C loans 1 and 2.

If Quidmarket has sold the outstanding debt it should buy it back if it is able to do so and then take the following steps. If Quidmarket isn't able to buy the debt back then it should liaise with the new debt owner to achieve the results outlined below.

A. Quidmarket should add together the total of the repayments made by Mr C towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything you have already refunded.
B. Quidmarket should calculate 8% simple interest* on the individual payments made by Mr C which were considered as part of "A", calculated from the date Mr C originally made the payments, to the date the complaint is settled.
C. If there is still an outstanding balance due for loan 3, then the amounts calculated in "A" and "B" can be used to repay any outstanding balance remaining. If this results in a surplus, then the surplus should be paid to Mr C. However, if there is still an

outstanding balance then Quidmarket should try to agree an affordable repayment plan with Mr C.

D. Quidmarket should remove any adverse information recorded on Mr C's credit file in relation to loans 1 and 2.

*HM Revenue & Customs requires Quidmarket to deduct tax from this interest. Quidmarket should give Mr C a certificate showing how much tax it has deducted if he asks for one.

My final decision

For the reasons I've explained above and in the provisional decision, I'm upholding Mr C's complaint in part.

Stagemount Limited trading as Quidmarket should put things right for Mr C as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 9 June 2023.

Robert Walker
Ombudsman