DRN-4429767

The complaint

Mr J complains Quidie Limited trading as Fernovo ("Quidie") provided him with a loan which wasn't affordable.

What happened

Mr J was granted one loan on 28 August 2018 for £400. Mr J was due to make four instalments of £168.49 and Mr J repaid the loan on 24 December 2018.

Quidie considered the complaint, and it outlined the checks that it carried out before it approved the loan. Quidie concluded the checks were proportionate and showed Mr J could afford the loan repayments. However, it explained that should Mr J withdraw his complaint then as a gesture of goodwill it would refund him £40 of interest. Unhappy with this response, Mr J referred his complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator, who didn't uphold it. But she did say that the credit check results showed that Mr J had a number of active loans and at least seven active credit cards near their credit limits. However, even if Quidie would've used the figures from the credit search results Mr J still had enough disposable income to afford the loan repayments.

Mr J didn't agree and in summary said:

- Proportionate checks needed to be "*holistic*" and he already outstanding debts.
- Based on the adjudicator's figures, Mr J only had around 8% of his income spare in which to make the loan repayment.
- The credit search carried out by Quidie showed that Mr J's debts were increasing.
- Relying on his declared income and expenditure wasn't reasonable given the high interest rate.
- It isn't always right to say that checks could be less thorough at the start of the lending relationship.
- The purpose of the loan wasn't checked.

The adjudicator explained, why in her view Mr J's comments hadn't changed her mind and Mr J then asked for an ombudsman's review. He made some further comments:

- Quidie ought to have looked more closely at his finances because at the time Mr J had three other payday loans active at the time.
- Further checks would've highlighted Mr J was spending money gambling each month.
- After this loan was approved, Mr J's credit file started to show payment arrangements.

As no agreement could be reached the case was passed to me and I proceeded to issue a provisional decision explaining the reasons why I was intending to uphold Mr J's complaint.

Both parties were asked to provide any further submissions as soon as possible but, in any event, no later 30 October 2023.

Quidie didn't respond to the provisional decision and Mr J confirmed he was happy with the outcome.

A copy of the provisional findings follows this in smaller font and forms part of this final decision.

What I said in my provisional decision:

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.

Quidie had to assess the lending to check if Mr J could afford to pay back the amount he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Quidie'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 J'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 Quidie should have done more to establish that any lending was sustainable for Mr J. These factors include:

- *Mr J 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 J 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 J 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 J. The adjudicator didn't consider this applied in Mr J's complaint and I would agree as only one loan was granted.

Quidie was required to establish whether Mr J could sustainably repay the loan – 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 J was able to repay his loan sustainably. But it doesn't automatically follow that this is the case.

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

Before the loan was approved, Quidie asked Mr J for details about his income, which he declared as being £3,250 per month. Quidie says the income figure was checked by cross referencing information through a third-party report which gave Quidie a high level of confidence that Mr J's declared income was accurate. Given this was the first loan, it was reasonable for Quidie to have relied on this income figure.

Mr J also declared monthly outgoings of £1,600 which was broken down as £350 for housing, £50 utilities, £200 for food, £50 for transport and £950 on existing credit commitments.

Quidie then went about checking this information. Firstly, Quidie said it used an "affordability" report provided by a credit reference agency and that report indicated that the amount Mr J declared for his credit commitments was accurate.

Secondly, while Mr J declared a monthly mortgage payment of £350 following verification from the report that I mentioned above, Quidie increased this figure to £653. And used this higher figure for its affordability assessment.

Thirdly, excluding credit commitments and the mortgage Mr J had declared other living costs of £300 per month. Quidie says this is much lower than averages provided by the Money Advice Service (MAS). Using MAS averages for someone in a similar situation to Mr J – for example having two dependants should have led to living costs of around £1,185 per month and so this is the figure it used for the affordability assessment.

Overall, Quidie using the MAS average of £1,185, plus the mortgage cost of £653 plus the credit commitments of £950 giving total monthly outgoings of £2,788. With an income figure of £3,250 this left £462 per month in disposable income to afford the monthly repayments of around £169. The loan looked affordable.

Before the loan was approved Quidie also carried out a credit search and it has provided the results it received from the credit reference agency. It is worth saying here that although Quidie carried out a credit search, there isn't a regulatory requirement to do one, let alone one to a specific standard. But what Quidie couldn't do is carry out a credit search and then not react to the information it received if necessary.

The headline data wouldn't have given Quidie cause for concern, it knew that Mr J didn't have any defaults within the preceding three years, no delinquent accounts within the last 12 months nor where there any Count Court Judgements.

It also knew that Mr J had close to £30,000 of debt (excluding the mortgage), was using 96% of his available credit limits on revolving credit and or budget accounts and had 19 active credit accounts.

As part of the credit search, Quidie was provided with details of the open accounts that Mr J had. It knew that he had seven active credit cards owing a total of £18,690. And importantly, two of the credit cards – according to the credit report were over the prescribed credit limit and then the reminder where all close to the set credit limit. Assuming that Mr J was due to repay 3% of the balance on these cards – this would equate to a monthly repayment of around £560.

Quidie also knew that Mr J had a number of loans outstanding. Only one was categorised as a payday loan and one was clearly a bank loan as well. The other loans were classed as "Finance House" loans and given the starting value and or the term of the loan these were likely to either be high-cost credit loans or payday instalment loans.

In any event, the payday loan had been opened in July 2018 and then the two Finance House loans opened in April and May 2018. Mr J had in recent months taken on several new lines of credit. The other loans that Mr J had were opened in 2017. The total monthly cost to service the loans, according to the credit report was £1,561.

So, the monthly credit commitments declared by Mr J couldn't have been correct, I appreciate Quidie said it was verified by the credit commitments in the credit report but what Quidie had access to showed the commitments (excluding the mortgage) to be greater than that – in fact these commitments were around £2,120 each month.

On top of this, and Quidie seems to have accepted this, is that the mortgage payment was paid by Mr J and so we have to add another £653 bringing Mr J's credit total commitments to £2,774 each month before his living costs were considered.

Now even going with the declared other living costs of £300 per month this brings the *expenditure up to £3,074 each month. This left only £178 to afford the loan repayment of around £169. So clearly, just based on the credit commitments that Quidie was given in the credit report, the mortgage payment and the declared other living costs the loan wasn't affordable.*

I say this because I don't think I can foresee a situation were leaving a consumer with only £9 after making the loan repayment – each month for four months is fair or reasonable. In my view the loan wasn't affordable.

And it's worth saying here, that Quidie seems to suggest the £300 each month Mr J declared (for other living costs) wasn't enough and not in line with MAS averages which is why it increased these costs to £1,185 per month. And using this figure, then the loan clearly isn't affordable even taking account of the fact that Mr J may not have been liable for the full mortgage payment.

I am therefore intending to uphold the complaint because the information Quidie was given as part of the affordability assessment showed that not only was Mr J in my view over indebted but also the loan wasn't affordable for him.

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.

Mr J accepted the findings of the provisional decision and Quidie hasn't responded. I therefore see no reason to depart from the findings that I previously made. I still think, the information Quidie gathered during its affordability assessment showed it that Mr J couldn't afford to make his repayments and so the loan ought to not have been granted.

I've outlined below what Quidie should do in order to put things right for Mr J.

Putting things right

In deciding what redress Quidie should fairly pay in this case I've thought about what might have happened had it not lent to Mr J, 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 Mr J may have simply left matters there. Or 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 Mr J 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 Mr J would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Quidie's liability in this case for what I'm satisfied it has done wrong and should put right.

Quidie shouldn't have lent to Mr J.

A. It should add together the total of the repayments made by Mr J towards interest, fees and charges towards the loan.
B. Quidie should calculate 8% simple interest* on the individual payments made by Mr J which were considered as part of “A”, calculated from the date Mr J originally made the payments, to the date the complaint is settled.
C. It should pay Mr J the total of “A” plus “B”.
D. Quidie should remove any adverse information it has have recorded on Mr J’s credit file in relation to the loan.

*HM Revenue & Customs requires Quidie to deduct tax from this interest. Quidie should give Mr J 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 J’s complaint.

Quidie Limited trading as Fernovo should put things right as directed above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr J to accept or reject my decision before 30 November 2023.

Robert Walker
Ombudsman