

The complaint

Mr O complained that Quidie Limited trading as Fernovo (“Quidie”) provided him with a loan without carrying out the correct affordability checks. Mr O says for the fourth loan Quidie ought to have reviewed his bank statements.

What happened

Mr O was granted four loans and a table of his borrowing can be found below. While I’ve included Mr O’s total lending history – this has been done for context, Mr O has been clear that he only wants loan four to be considered.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	largest repayment per loan
1	£400.00	29/06/2022	08/07/2022	4	£143.36
2	£150.00	12/07/2022	18/07/2022	3	£72.83
3	£200.00	22/08/2022	07/09/2022	3	£91.36
4	£500.00	09/02/2023	outstanding	4	£206.01

Mr O has also had some problems repaying loan four and by May 2023 no payments had yet been received by Quidie.

Quidie considered the complaint and issued its answer in April 2023, and it outlined the checks that it carried out before it approved the loans. Quidie concluded the checks were proportionate and showed Mr O could afford the repayments. However, it explained that should Mr O withdraw his complaint then as a gesture of goodwill it would reduce the outstanding debt to £653.65 and it also offered to remove all the loans from Mr O’s credit file.

Unhappy with this response, Mr O referred his complaint to the Financial Ombudsman.

While the case was waiting for a review, Mr O emailed us to confirm that Quidie was still increasing the balance each day and he had been in contact with it about this issue.

The complaint was considered by an adjudicator who looked at loan four only, and she didn’t uphold the complaint because she said proportionate checks were conducted which showed Quidie that the loan was affordable.

Mr O didn’t agree with the outcome the adjudicator had reached about loan four, in summary he said:

- Quidie failed to ask for bank statements to see how his account was being managed.
- Mr O was on a zero-hour contract and so his pay wasn’t guaranteed.
- Mr O said he hasn’t been treated fairly by Quidie because, even though he is on a zero-hours contract the loan balance has been increased to close to £1,000 which is double the amount that he borrowed.

The adjudicator explained, why Mr O's comments hadn't changed her mind. Mr O remained unhappy and requested the case be reviewed.

The complaint was then passed to me, and I issued a provisional decision explaining the reasons why I was intending to uphold Mr O's complaint. Both parties were asked to provide any new submissions as soon as possible, but in any event, no later than 1 November 2023.

Neither party responded to nor provided any new submissions in response to the provisional decision. As the deadline has now passed, I've reconsidered everything as part of this final decision.

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 O 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 O'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 O. These factors include:

- Mr O 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 O 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 O 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 O. The adjudicator didn't consider this applied in Mr O's complaint and I would agree as loan four was the first loan in a new lending chain.

Quidie was required to establish whether Mr O 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 O 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 O's complaint.

Unaffordable lending

For clarity, I am only reviewing what happened when loan four was advanced. And while it

was Mr O's fourth loan, it was actually the first loan of a new lending chain, and this does have an impact on what a proportionate check may be.

Before the loan was approved, Quidie asked Mr O for details of his income, which he declared as being £2,000 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 O's declared income was accurate. Given this was the first loan in a new chain, it was reasonable for Quidie to have relied on the results of its check.

Mr O has said that at the time of the loan he was on a zero-hour contract, but that information wasn't reflected in what he told Quidie nor what Quidie received back from the income check that it carried out. It seems Quidie wasn't aware of Mr O's contract status, and as such it couldn't make any adjustments that it may have needed to. To be clear, it was reasonable of Quidie to take what Mr O was saying about his income at face value especially when its check didn't contradict what Mr O had declared.

Mr O also declared monthly outgoings of £850 which was broken down as £350 for housing, £50 utilities, £150 for food, £80 for transport and £220 on other outgoings.

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 O paid each month to his other credit commitments was more than the zero he declared and likely to be around £120 per month.

Secondly, while Mr O declared monthly housing costs of £350, Quidie took averages of rents for similar properties in Mr O's postcode, it then increased this cost to £400 per month and used this higher figure for its affordability assessment.

Thirdly, excluding credit commitments and the rent payments Mr O had declared other living costs of £500 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 O – for example having a dependant this should have led to living costs of around £780 and so this is the figure it used for the assessment.

Overall, Quidie using the MAS average of £780, plus the rent cost of £400 plus the credit commitments of £120 giving total monthly outgoings of £1,300. With an income figure of £2,000 this left £700 per month in disposable income to afford the repayments of around £206. Loan four 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 O didn't have any defaults within the preceding three years, no delinquent accounts within the last 12 months nor where there any County Court Judgements. It also knew that Mr O had around £8,500 of existing debt by eight active credit accounts.

As part of the credit search, Quidie was provided details of the open accounts that Mr O had. It knew about a hire purchase agreement for a car which was costing Mr O £475 per month, and he also had an unsecured loan opened in September 2022 which was costing £209 per month. Overall, these two agreements were costing Mr O £684 per month.

The other accounts which Quidie knew about were telecommunication account, two utilities, a credit card and two current accounts. With one of those current accounts Mr O was close to his overdraft limit – he was utilising £198 of a £200 overdraft. The credit card at the time had a zero balance so it doesn't appear that was costing Mr O anything at all.

So, the monthly credit commitments declared by Mr O couldn't have been correct when he declared £0, I appreciate Quidie said it was verified by the credit commitments in the credit report and so for its affordability assessment it used £120 per month. But Quidie had access to the credit report which showed the commitments to be greater than that – in fact these commitments were around £684 each month.

On top of this, Quidie had already increased Mr O's rent cost to £400 per month and had used the MAS average of £780 per month. Now factoring in the actual credit commitments that Quidie knew about of £684 this brings Mr O's outgoings to £1,864 per month – leaving £136 per month of disposable income.

However, the loan repayment Mr O was committed to was £206.01 per month, which clearly couldn't be made because based on the information Quidie used he didn't have sufficient income to be able to take on and service this loan.

I am therefore intending to uphold the complaint because the information Quidie was given as part of the affordability assessment showed Mr O couldn't afford this loan. An outstanding balance will still be due, and I would remind Quidie of its obligation to treat Mr O fairly and with forbearance.

Treating Mr O fairly

I appreciate Mr O has some concerns around how he has been treated especially in light of the fact that he says he is on a zero-hour contract. Further enquires had been made with Quidie to find out what it knew about that and what help and support it offered to Mr O as it is required to do by the regulator. Disappointingly though, Quidie hasn't responded to our request for further information. So, I don't know exactly what help and support it has offered and why.

I haven't seen any evidence to date that after knowing about Mr O's repayment difficulties that Quidie treated him fairly and with forbearance in line with its regulatory obligations. And Mr O has contacted us on a number of occasions about the fact the balance was increasing and that he was having difficulties. In light of the lack of evidence, provided by Quidie I'm satisfied on balance, that Mr O has been caused a degree of distress and inconvenience. So given that, I am intending to ask Quidie to pay Mr O directly £100 to reflect this.

Mr O is concerned that daily interest was being added to the balance. Quidie wasn't under any obligation to suspend the interest fees and charges while an investigation took place, but I would add is that some lenders may take a different approach, but that isn't a reason that I can uphold this element of the complaint.

The regulator implemented a cost cap for this type of loan, so at worse, Quidie could only collected 100% of the amount advanced. In this case, the most Quidie could collect from Mr O would be £1,000. However, as I am now intending to uphold the complaint Mr O shouldn't need to pay any interest or charges at all. But there is an expectation that Mr O will need to repay the capital sum he borrowed – in this case £500.

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.

As neither party provided any new submissions, I see no reason to depart from the findings I reached in the provisional decision. I still think, based on the information that Quidie had to hand from its own checks that it ought to have realised that loan four wasn't affordable for Mr O and so it shouldn't have been granted.

In addition, Quidie hasn't provided any further evidence to show it treated Mr O fairly and with forbearance and therefore I am recommending a payment of distress and inconvenience.

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

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 loan four to Mr O, 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 O may have simply left matters there, not attempting to obtain the funds from elsewhere. 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 O 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 Mr O 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 loan four to Mr O.

If Quidie have sold the outstanding debt it should buy it back if it is able to do so and then take the following steps. If Quidie is not able to buy the debt back then Quidie should liaise with the new debt owner to achieve the results outlined below.

- A. Quidie should remove all interest, fees and charges from the balance loan four, and treat any repayments made by Mr O as though they had been repayments of the principal. If this results in Mr O having made overpayments then Quidie should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled.
- B. However, if there is still an outstanding balance then Quidie should try to agree an affordable repayment plan with Mr O and I would remind Quidie of its obligation to treat Mr O fairly and with forbearance.
- C. Quidie should remove any adverse information recorded on Mr O's credit file in relation to the loan.
- D. Quidie should also pay directly to Mr O £100 for the distress and inconvenience that has been caused.

*HM Revenue & Customs requires Quidie to deduct tax from this interest. Quidie should give Mr O 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 O's complaint about loan four.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 1 December 2023.

Robert Walker
Ombudsman