DRN-4800962

Financial Ombudsman Service

The complaint

Mr F complains that Quidie Limited trading as Fernovo ("Quidie") provided him with loans without carrying out sufficient affordability checks.

What happened

A summary of Mr F's borrowing can be found below.

loan number	loan amount	agreement date	repayment date	number of monthly repayments	monthly repayment amount
1	£250.00	31/01/2022	07/02/2022	4	£103.19
2	£400.00	04/04/2022	22/04/2022	4	£162.15
3	£500.00	02/05/2022	19/05/2022	4	£207.15
break in lending					
4	£200.00	08/12/2022	19/12/2022	1	£219.20
5	£150.00	04/01/2023	09/01/2023	4	£56.47
6	£400.00	24/01/2023	outstanding	3	£192.07

Quidie considered the complaint, and it outlined the checks that it carried out before it approved the loans. Quidie concluded the checks were proportionate and showed that Mr F could afford the repayments.

However, it explained as a gesture of goodwill, it would reduce the outstanding debt to £582.93 and it also offered to remove all the loans from Mr F's credit file once the last loan had been repaid. Unhappy with this response, Mr F's representative referred the complaint to the Financial Ombudsman.

The complaint was considered by an investigator and in her latest assessment she upheld Mr F's complaint about all the loans. She said the credit check results received by Quidie showed a County Court Judgement (CCJ) and numerous defaults. The information Quidie had received also told it that Mr F was a regular user of high-cost credit (another name for payday loans). This led the investigator to conclude that Mr F wouldn't likely be able to sustainably repay his loans.

Quidie didn't agree with the investigator's assessment. The complaint was passed to me, and I issued a provisional decision explaining why I thought only loan 3 and loan 6 ought to have been upheld. Both parties were given an opportunity to provide any further submissions.

Mr F hasn't responded or provided anything further. Quidie accepted the findings in the provisional decision.

A copy of my 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 F 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. 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 F’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 F. These factors include:

- *Mr F 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 F 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 F 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 F. The investigator didn’t consider this applied to Mr F’s complaint and I would agree given the number of loans, the time in debt and the break in lending between loans 3 and 4.

Quidie was required to establish whether Mr F 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 F was able to repay his loans 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 F’s complaint.

Loan 1

Quidie asked Mr F for details of his income, which he declared as being £3,330 per month. It is my understanding of Quidie’s lending practices that it may have cross referenced this information through a third-party report. It hasn’t said whether it did this for this loan, but for a first loan I think it would’ve been reasonable for Quidie to have solely relied on what Mr F told it if indeed it didn’t carry out the additional check.

Mr F also gave details of his living costs including, housing, bills, food and credit commitments. He declared these costs came to £1,367 per month. 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 F paid each month to his other credit commitments wasn’t as much as Mr F had declared. But to err on the side of caution, Quidie used the figure provided by Mr F.

Secondly, Quidie considered the costs Mr F had declared for other living costs and housing costs. Quidie compared what Mr F said against averages provided by the Money Advice Service (MAS). Using MAS averages for someone in a similar situation to Mr F, it concluded he had declared larger costs and as such it used the information Mr F had provided for the affordability assessment.

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.

So, while I can see that Mr F has provided a copy of his credit report, in the circumstances I don't think it would be fair to consider the contents of it. I say this because Quidie has been able to provide the Financial Ombudsman with the information that it saw when considering his loan application.

The headline data for Mr F's active accounts I don't think would've been of a concern to Quidie. It knew Mr F had 11 active credit accounts owing just over £6,500. Of these accounts only two were loans.

I appreciate Mr F says that he was borrowing from other lenders at the time, but that information wasn't fully reflected in the information Quidie received in the credit check results and that isn't unusual given a credit check received by a lender can show different information to the one that a consumer can obtain themselves. The results also don't appear to contradict what it was being told by Mr F and therefore Quidie was entitled to relay on the results.

I now turn to the judgement and the defaults – in the investigator's view these should've been sufficiently concerning for Quidie to have declined Mr F's application. The first matter is the judgement. In response to the investigator's view Quidie said that it wasn't a CCJ but a court order. But to me this is just semantics because it doesn't really matter what it was. In my view, the order on the credit file shows that Mr F has been ordered by the courts to pay a party a certain sum of money.

At the time of the loan application the judgement was still active. Quidie didn't know how much (if anything) had been repaid, but it's possible Mr F was making some monthly repayments – all I can say is that Quidie was aware this judgement debt was outstanding.

However, in saying that I've considered that the judgement was recorded more than two years before the first loan was granted. In addition, the judgement amount doesn't appear to correlate to any account that had been defaulted in Mr F's credit search results and so it is of course possible that this related to a historic debt. But whether the debt was of a historic nature or not, hasn't factored into my thinking.

Given the sector of the market which Quidie operates in there is an expectation that there may be adverse payment information on a credit file, so I don't think a judgment from two years before the loan being granted would've likely led Quidie to determine that it needed to conduct better checks.

Quidie was also told about 9 defaults, with 8 of them being reported in 2018 and 2019 and then the final one being reported in February 2020. I'm satisfied that this is a significant number of defaults but what I have to decide is how much weight, if any, should Quidie have placed on them in determining whether it was appropriate to conduct further checks. Quidie was told that five of the defaults had been settled in 2021 – and so there was no longer any money owing. However, Mr F still owed just over £5,500 to his defaulted creditors.

Clearly around 2018 and 2019 must have been a particularly challenging time for Mr F because he had sufficient difficulty repaying a number of creditors that led to a number of accounts being marked as defaulted.

I also must consider the information Quidie had about the number of defaults and balance it with the information which told Quidie that at most were reported between 2 and 3 years before the first loan was granted. Some of the defaults had been settled and so on balance I *don't think Quidie wouldn't have been concerned about those when thinking about Mr F's ability to repay loan 1.*

The outstanding defaults didn't appear to have had payment made on them for at least a year – some had none since the defaults were applied. I don't think that Quidie needed to factor in payments that Mr F ought to have been making to these creditors into his monthly commitment, because he wasn't paying them. Secondly, these defaults and the judgment had been recorded some time before he approached Quidie.

This was the first loan, for a modest amount, the checks were proportionate and the information Quidie had gathered suggested Mr F would be in a position to afford the loan repayments. The credit check results also, didn't in my view suggest that he was regularly applying for and being granted payday loans. In those circumstances I don't think the credit check results would've prompted Quidie either to do further checks or to have declined the application.

I appreciate Mr F says that he had been applying for lots of credit through other sources and that would've shown in the credit search data. However, the data Quidie received didn't show the number of searches that had been carried out within any given timescale. Given the caveats with regards to the credit search results, I can't say an error was made by Quidie not finding out about his credit search history.

Overall, it also means that while Mr F has provided copy bank statements, I think it would've been disproportionate for Quidie to have considered them for this modest loan and so early on in the lending relationship. There also wasn't anything to suggest Mr F was having current financial difficulties or to indicate the loan repayment would be unsustainable for him.

Taking everything into account, I am planning to not uphold Mr F's complaint about the loan.

Loans 2 and 3

Loan 1 was repaid, more quickly than Quidie had anticipated, because it was settled in just over a week. Mr F then returned for another loan around 2 months later (loan 2) before repaying it after nearly three weeks. Just over a week later he returned for the final loan in this chain.

For these loans, Mr F provided details of his income and for the assessment Quidie used an income figure of £3,360 – which was similar to the figure given for loan 1.

Mr F provided his expenditure for these loans, at £2,499 per month for loan 2 and £2,510 per month for loan 2. Quidie carried out the same checks with regards to considering the MAS averages but as before it didn't make any adjustments. Which resulted in Quidie reasonably concluding that Mr F had sufficient disposable income to afford the largest monthly repayment for these loans of £207.

Quidie also carried out a credit searches and the same caveats I outlined earlier in this decision apply to the results it received as they did for the first loan.

For loan 2, Mr F had similar levels of debt as he had at loan 1, no new adverse payment markers had been applied and he had one outstanding loan costing £275 per month. So, Quidie ought to have been on notice that the amount Mr F declared as part of his application wasn't accurate because he told it his credit commitments were only £100. But even if Quidie had factored in the costs that it could see from the credit report (including the balance on a credit card) than Quidie would've thought he still had enough disposable income to afford his loan repayments.

I am therefore not planning to uphold Mr F's complaint about loan 2.

In relation to loan 3, I've also considered that Mr F had repaid loans 1 and 2 much more quickly than it had anticipated, and he had come back each time for further borrowing. While

Quidie may have thought that was a positive indicator, I think with the slightly larger overall indebtedness coupled with the increasing number of new accounts being opened within the previous six months – really ought to have flagged some concerns.

However, I do think now there were signs of financial distress, he was still opening new credit facilities. Indeed, Mr F had settled seven loan accounts (including Quidie loans 1 and 2) in the months leading up to the approval of loan 3. The Loan 3 repayment was going to have been the largest monthly payment.

By now, Quidie ought to have realised that perhaps Mr F was using other loans and in an unsustainable manner. I think this ought to have led Quidie to conduct further checks into Mr F's finances before it approved this loan.

Mr F had provided copy bank statements from the time that this third loan was granted and so I've reviewed these to see what Quidie may have discovered had it carried out what I consider to be a proportionate check at loan 3. Had further checks been carried out Quidie would've likely discovered that Mr F was spending significant sums on gambling transactions each month – indeed just in the week before this loan is advanced Mr F spent nearly £900 on such transactions. So that with his other living costs that Quidie knew about meant that loan 3 wasn't affordable for Mr F and Quidie would've likely discovered that had it made better checks.

I am therefore proposing to uphold Mr F's complaint about loan 3.

Loans 4 – 6

There is then a significant break in borrowing between Mr F repaying loan 3 and return for loan 4. This break is long enough for Quidie to have treated Mr F's application afresh and as if he was a new customer. The consequences of this were that Mr F's fourth loan application effectivity became the first in a new chain of borrowing.

The same sort of checks as carried out for loans 1 to 3 were carried out before these loans were approved. Mr F was asked for details of his income, this has been recorded as £3,750 for loans 4 and 5 and £3,760 for loan 6. Quidie also gathered copy pay slips before loan 4 and 6 were granted, so Quidie had an accurate picture of Mr F's actual income.

Mr F also gave details of his living costs, across the same categories that he had provided when he was granted his previous loans. These monthly costs came to £2,510 per month for loans 4 and 5 and then £1,810 per month for loan 6.

I do have some concerns about the information that Mr F provided for loan 6. I say this because the loan was taken out only 3 weeks after loan 5 yet his monthly living costs had decreased by £600 – this to me seems unlikely. This is also despite Mr F declaring as part of his application that his credit commitments had increased from £100 per month to £450. He was also now declaring that he had housing costs of £180 – which hadn't been declared for loans 4 and 5 and his 'other outgoings' had significantly decreased as well – reducing by nearly 66%.

Credit checks were conducted, and Quidie has provided the results it received from the credit reference agencies. The same caveats apply to the results – and Quidie was entitled to rely on the information it received even though the results may not contain all the details of the accounts that Mr F maybe able to see from his personal full credit report.

For loans 4 and 5 I don't think there was anything too concerning in the credit check results. No new adverse credit file information had been added since loan 1 – so no new defaults, judgements or missed payment markers. When loan 4 was approved, Mr F had one outstanding loan and a couple of credit cards.

Quidie, as with his previous loans knew that the amount Mr F had declared for his credit commitments wasn't accurate – the credit file results showed for example at loan 5 that

Mr F’s commitments were at least £500 per month. Whereas, in his application he declared these costs were only £100. But even factoring in the actual costs the loans still looked affordable. Therefore, I am intending to not uphold Mr F’s complaint about loans 4 and 5.

However, the credit check results received for loan 6 indicated a worsening financial position. Mr F’s total indebtedness had doubled from loan 4 – which was only taken a month before – his overall debt at this point was now nearly £21,000 spread across 15 active accounts. He had also opened 7 new accounts within the last six months – which was more than one per month and could be an indicator that Mr F was having difficulties managing his existing creditors because he needed to continue to apply for further credit.

Once again, Quidie also knew that Mr F’s monthly credit commitments were greater than what he had declared for this loan. Quidie was on notice that his monthly credit commitments were at least £670 (before the repayment for the Quidie loan).

On top of my concerns with the credit check results for loan 6, there are also the concerns I have about the expenditure information Mr F had provided and which I’ve explained above. These two factors ought to have led Quidie to have carried out further checks to get to the bottom of Mr F’s outgoings.

As before I’ve reviewed Mr F’s bank statements which he provided the Financial Ombudsman on another complaint and the copy bank statements cover the period of time just before this loan was approved. Had better checks been made it would’ve realised that Mr F couldn’t afford his loan, this is because all of his direct debts, standing orders,

payments for living costs and payments to other lenders came to around £3,500 per month. I don’t think Mr F could afford his repayments given, that he still had other costs that I can see and he appeared to be borrowing and then repaying funds to friends. Overall, had Quidie conducted better checks it would’ve likely discovered this loan wasn’t affordable for Mr F and therefore not lent to 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.

Quidie has accepted the conclusions I made in the provisional decision and therefore has agreed to pay compensation as set out for loans 3 and 6. Mr F hasn’t provided any further comments, so I see no reason to depart from the findings I made in the provisional decision.

I still don’t think Quidie ought to have granted loan 3 or 6 and it would’ve realised that had it carried out a proportionate check.

I’ve set out below, what it has agreed to do in order to put things right for Mr F.

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 loans 3 and 6, 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 F may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between them and this particular lender which they 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 Mr F 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 F 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 loans 3 and 6. I am planning to direct that Quidie does as follows. If Quidie has sold the outstanding debt it should buy it back if Quidie is able to do so and then take the following steps. If Quidie can't buy the debt back then Quidie should liaise with the new debt owner to achieve the results outlined below.

A. Quidie should add together the total of the repayments made by Mr F towards interest, fees and charges on loan 3.
B. It should calculate 8% simple interest* on the individual payments made by Mr F which were considered as part of "A", calculated from the date Mr F originally made the payments, to the date the complaint is settled.
C. Quidie should then remove all interest, fees and charges from the balance of loan 6, and treat any repayments made by Mr F as though they had been repayments of the principal. If this results in Mr F 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. Quidie should then refund the amounts calculated in "A" and "B" and move to step "E".
D. However, If there is still an outstanding balance due on loan 6 then the amounts calculated in "A" and "B" should be used to repay any balance remaining on the loan. If this results in a surplus then the surplus should be paid to Mr F. However, if there is still an outstanding balance then Quidie should try to agree an affordable repayment plan with Mr F and I would remind it of its obligation to treat Mr F fairly and with forbearance.
E. Quidie should remove any adverse information recorded on Mr F's credit file in relation to loans 3 and 6.

*HM Revenue & Customs requires Quidie to deduct tax from this interest. Quidie should give Mr F 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 F's complaint in part.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 14 June 2024.

Robert Walker
Ombudsman