

complaint

Mr H complains that CashEuroNet UK LLC, trading as QuickQuid, ("QQ"), gave him loans that he couldn't afford to repay.

background

Mr H borrowed 16 loans and seven top up loans from QQ between January 2014 and October 2017. All the loans have been repaid. A summary of the loans taken out by Mr H is shown below:

Loan number	Date of loan	Repayment date	Number of loan instalments	Loan repayment amount (if one instalment) or highest monthly instalment amount
1.	28/1/14	27/2/14	1	£285
2.	8/3/14	27/3/14	1	£420
2a.	17/3/14	27/3/14	1	£720
3.	3/4/14	25/4/14	1	£690
4.	8/8/14	27/8/14	1	£351
5.	4/9/14	26/9/14	1	£480
6.	11/10/14	27/10/14	1	£360
6a.	18/10/14	27/10/14	1	£540
7.	6/11/14	27/11/14	1	£819
8.	18/12/14	27/1/15	1	£253.30
9.	15/2/15	27/3/15	2	£120.16
10.	16/4/15	1/5/15	1	£132.80
11.	4/6/15	27/7/15	2	£423.78
12.	31/10/15	27/1/16	3	£430.92
12a.	21/11/15	27/1/16	3	£492.48
13.	1/5/16	27/7/16	3	£496
13a.	14/5/16	27/7/16	3	£620
13b.	18/5/16	27/7/16	3	£682
14.	8/5/17	2/6/17	3	£186
14a.	12/5/17	2/6/17	3	£496
15.	8/8/17	4/10/17	2	£316
15a.	11/8/17	4/10/17	2	£632
16	31/10/17	28/11/17	3	£189.60

Mr H said that he shouldn't have been allowed to borrow as he had so many loans on his credit report. This resulted in a debt spiral and caused him health problems.

QQ said it wasn't irresponsible when lending. It had carried out proportionate checks prior to granting the loans. It had obtained Mr H's income prior to Loans 1 to 3 and his income and expenses for Loans 4 onwards. It had carried out credit checks and analysed Mr H's current financial commitments, insolvency records, delinquency records, county court judgements, credit enquiries and other credit accounts then open. It had verified the information obtained from Mr H and considered credit scoring information from the credit reference agencies.

The adjudicator said that the checks QQ had carried out before Loans 14 to 15 were sufficient. But she said that the checks which QQ had carried out before the other loans weren't sufficient. She didn't think that Loans 3 to 13b, 15a and 16 were sustainable. The adjudicator recommended that QQ should:

- Refund all interest and charges that Mr H paid on Loans 3 to 13b, 15a and 16;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
- Remove any negative information about Loans 3 to 13b, 15a and 16 from Mr H's credit file.

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*HM Revenue & Customs requires QQ to take off tax from this interest. QQ must give Mr H a certificate showing how much tax it's taken off if he asks for one.

QQ responded to say that it had relied on the information Mr H had provided at the time of application. QQ also said that it wouldn't have been able to determine that Mr H was gambling.

In addition, QQ said that from 1 March 2015 it had implemented an affordability review that was consistent with the Financial Conduct Authority's requirements. Broadly, the assessment considered a customer's income and expense data for housing, utilities, food, transport, other credit commitments, and other recurring expenses. It validated the figures provided by the customer using the customer's credit report. It tried to ensure that any short term credit and payments were included and validated the reasonableness of the customer's self-reported expense amount with credit reference agency data to ensure its customer was providing an accurate picture of his or her financial situation, including any of the customer's other high cost short term loans. Given this external validation process, it believed its checks went far enough with respect to verifying customer expenses. QQ used validated data in order to determine the customer's estimated disposable income (EDI). QQ said it only makes loans where total payments are less than 80% of the customer's total EDI for the term of the loan. QQ said that this assessment, including the validation of expenses and income was conducted on each loan application.

QQ also offered to refund the interest paid on Loans 3 to 8, pay 8% statutory interest on the refunds and to remove adverse information about Loans 3 to 8 from Mr H's credit file.

Mr H rejected QQ's offer.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I note that QQ has offered to settle Mr H's complaint about Loans 3 to 8. So, except for ordering QQ to provide the offered redress later in this decision, I won't make any other findings about those loans here.

QQ was required to lend responsibly. It needed to make checks to make sure Mr H could afford to repay each of the loans before it lent to him. Those checks needed to be proportionate to things such as the amount Mr H was borrowing, the length of the agreements and his lending history. But there was no set list of checks it had to do.

But the guidance in place at the time of Loans 1 to 2a was clear about the responsibility of the lender to take reasonable steps to ensure that a borrower could *sustainably* repay their loans. The Office of Fair Trading's ("OFT") Irresponsible Lending Guidance said that assessing affordability was a borrower-focussed test which involved a creditor assessing a borrower's ability to undertake a specific credit commitment, or specific additional credit commitment, in a sustainable manner, without the borrower incurring (further) financial difficulties. The guidance also said that repaying credit in a sustainable manner meant being able to repay credit "*out of income and/or available savings*" and without "*undue difficulty*." And it defined "*undue difficulty*" as being able to repay credit "*while also meeting other debt repayments and normal/reasonable outgoings*" and "*without having to borrow further to meet these repayments*"

Loans 3 onwards were regulated by the Financial Conduct Authority. Its regulations for lenders are set out in its consumer credit sourcebook and are similar to those from the OFT in many respects.

QQ has told us about the checks it did before agreeing to lend to Mr H. It says that it made credit checks for all the loans, although I've not seen the results of these. And I note that it asked him about his income before all the loans and his expenditure from Loan 4 onwards.

For Loan 1, QQ had recorded Mr H's income as £2,000. It doesn't appear that QQ had obtained details of Mr H's expenditure at this stage. I note that the loan repayment amount of £285 was a significant proportion of Mr H's income. So, I think that it would have been proportionate for QQ to have carried out more checks here. Whilst I think QQ could rely on the annual income figure provided by Mr H, I also think it should have supplemented this by asking Mr H for information about his normal living costs and regular financial commitments. I can't see that it did this.

As I also think that the highest loan repayment amount of £420 for Loan 2 was a significant proportion of Mr H's income, I think similar checks to those I suggested for Loan 1 should also have been carried out before this loan. But I can't see that QQ did so.

When Mr H took the top up to Loan 2, Loan 2a, the highest repayment amount increased to £720 which was over a third of the income that Mr H had declared to QQ. I also note that Mr H sought the top up only nine days after taking Loan 2. I think that QQ should have been concerned about the frequency of Mr H's loan requests despite the amount of his disposable income. I think they might have suggested to QQ that Mr H was using short term loans as a supplement to his normal income, rather than using them to meet a temporary one-off problem. So I think that QQ should have taken great care to ensure that Mr H was able to sustainably afford the loan repayment. And I don't think that just basing that assessment on what Mr H had said about his income was sufficient. I think QQ should also have asked Mr H for details of his normal living costs and regular financial commitments as well as his short term lending.

I note that Loan 9 was Mr H's ninth loan from QQ in just over a year. And he continued to borrow regularly from QQ until Loan 13b. I think Mr H's loans were being taken sufficiently regularly to show that Mr H was reliant on them. By this time, I also think it should have been clear to QQ that it could no longer rely on the information Mr H had provided about his financial situation. In view of the regularity of Mr H's loan applications, I think it would have been proportionate for QQ to look in much more depth at Mr H's true financial situation to assess the affordability of Loans 9 to 13b. It could've done this in a number of ways. It

could've asked for evidence of Mr H's income and expenditure such as payslips and bills, or it could've looked at things like his bank statements.

Mr H applied for Loan 14 over nine months after Loan 13b was repaid. I think that was a significant gap, and long enough to make QQ think that Mr H's finances had returned to a more secure footing. So I think that QQ could have approached Loan 14 as though it was lending to Mr H for the first time. The loan was repayable by three instalments with a highest monthly repayment of £186. I think the repayment amount was relatively modest compared to Mr H's declared disposable income of £1,000. So, I think it was proportionate for QQ to consider Mr H's declared income and expenditure, without making further checks for Loan 14. So, I don't think QQ did anything wrong in giving Loan 14 to Mr H.

The highest repayment amount for Loans 14 and 14a combined increased to £496. But I think the repayment amount was still relatively modest compared to Mr H's declared disposable income of £1,000. So, again I think that QQ's checks were sufficient before Loan 14a.

With regard to Loan 15, again I think the highest repayment amount of £316 was still relatively modest compared to the disposable income of £1,000 which Mr H had declared. So, I think that QQ's checks were sufficient here. And I don't think QQ did anything wrong in giving Loan 15 to Mr H.

But when Mr H took the top up to Loan 15, Loan 15a, the highest repayment amount increased significantly to £632. I think this was a substantial proportion of Mr H's income. I also note that Mr H sought the top up only three days after taking Loan 15. I think that QQ should have been concerned about the frequency of Mr H's loan requests despite the amount of his disposable income. I think they might have suggested to QQ that Mr H was using short term loans as a supplement to his normal income, rather than using them to meet a temporary one-off problem. So I think it would have been proportionate for QQ to have asked him some more detailed questions at this point, such as whether he was borrowing from other short term lenders at the same time.

QQ said that Mr H's declared expenses amount included any short term credit he had. It told us that it asked Mr H for details of his other credit commitments including short term credit. I note that Mr H told QQ that his other credit commitments amounted to £200. I haven't seen evidence of how the examples of what expenditure to include were presented to Mr H. I think that it's possible that what he saw was insufficient to help him understand that he should include other payday loans in his credit expenditure figures. So I don't think it's reasonable to conclude that QQ gathered enough information here about Mr H to reasonably assess if he could afford to repay the loan.

I note that Mr H was a little late paying Loans 15 and 15a, and Loan 16 was taken out in the same month as Loans 15 and 15a were repaid. I also note that Mr H had told QQ that his other credit commitments had increased to £450.50. Although the highest loan repayment amount for Loan 16 had reduced to around £190, I think Mr H's previous loan repayment history, the frequency of his borrowing and the increase in his declared other borrowing might have concerned QQ. So, again I think that QQ should have gathered information from Mr H here about his short term lending. And, as I said for Loan 15a, I haven't seen evidence of how the examples of what expenditure to include were presented to Mr H. I think that it's possible that what he saw was insufficient to help him understand that he should include other payday loans in his credit expenditure figures. So I don't think it's reasonable to conclude that QQ gathered enough information here about Mr H to reasonably assess if he could afford to repay Loan 16.

Although I don't think the checks QQ did for Loans 1 to 2a, 9 to 13b and 15a and 16 were sufficient, that in itself doesn't mean that Mr H's complaint about these should succeed. I also need to see whether what I consider to be proportionate checks would have suggested to QQ that Mr H couldn't sustainably afford the loans. So I've looked at what Mr H has told us about his financial position and Mr H's bank statements to see what better checks would have shown QQ.

With regard to Loans 1 and 2, as I've said above, I would have expected QQ to ask about Mr H's living costs and regular financial commitments. I can see that Mr H told QQ his expenses were £325 in August 2014. As this information was given less than seven months after Loan 1 and five months after Loan 2, I think it's likely Mr H would have also given that figure to QQ as his expenses for these loans. So I've used the figure of £325 for his expenses and as a result I think the checks QQ should have made would have suggested that these loans were sustainable. Mr H's disposable income for these loans would have been around £1,675. So, I can see that proportionate checks would have suggested to QQ that Mr H was able to sustainably repay these loans, while meeting his regular expenditure. So, whilst I don't think QQ did carry out proportionate checks before giving Loans 1 and 2, I also don't think that carrying out better checks would've uncovered anything that would've stopped QQ from giving the loans to Mr H.

With regard to Loan 2a, as I've said above, I would have expected QQ to ask about Mr H's living costs, regular financial commitments and short term lending. I've again used the figure of £325 for his regular expenses for the reasons stated above. But I would also have expected QQ to have gathered information about Mr H's other short term credit commitments. To find out more about these, I've reviewed Mr H's bank statements for the month before he took Loan 2a. I can see that Mr H had taken out another short term loan from another lender in that month for £100. So, I can see that proportionate checks would have suggested to QQ that Mr H was able to sustainably repay this loan, while meeting his regular expenditure and other short term lending. So, I'm not intending to uphold Mr H's complaint about Loan 2a.

As I've said above, by the time of Loan 9, I would have expected QQ to make detailed checks on Mr H's financial situation, for example by checking Mr H's bank statements at the time of these loans. The bank statements may not have shown QQ everything it would've seen by carrying out proportionate checks. But I think that the bank statements are the best indication of Mr H's ability to afford the loans at the time they were approved. So I don't think it's unreasonable to rely on these.

For Loan 9, Mr H's statements show his regular income was around £2,776, and his regular expenditure had increased to around £1,070. But, if QQ had been independently checking the information Mr H had provided, it also would have become aware that Mr H was gambling heavily. And to support this gambling expenditure of around £1,600, he had taken short term loans totalling £820 which would have had to be paid around the same time as Loan 9. So, if QQ had carried out what I consider to be proportionate checks before Loan 9, I think it's likely that they would have suggested that Loan 9 wasn't sustainable. So as a responsible lender, I don't think it would have considered this a sustainable loan.

Whilst Mr H's gambling expenditure had reduced before Loan 10 to around £850, his regular expenditure was around £1,200 and his short term lending which was likely to be repayable at the same time that Loan 10 was due to be repaid, totalled £600. As his monthly income was around £1,928, I think that better checks would have suggested to QQ that Mr H had insufficient disposable income to repay this loan.

In the month before Loan 11 Mr H's spending on gambling had increased to over £1,400, his regular expenditure was around £1,200 and his short term lending which was likely to be repayable at the same time that Loan 11 was due to be repaid, totalled £1,400. As his monthly income was around £1,522, I think that better checks would have suggested to QQ that Mr H had insufficient disposable income to repay this loan.

Before Loans 12 and 12a, again I can see that by looking at Mr H's expenditure, including his regular expenditure, his gambling and what he was repaying to other short term lenders, that it seems that Mr H wouldn't have had enough left over to repay Loans 12 and 12a.

And before Loans 13, 13a and 13b, I can see that Mr H's financial position didn't improve. His expenditure on gambling for the month before all these loans was more than his income of around £1,723. And the total of Mr H's other short term lending and regular expenditure was also more than his income. So again I think that better checks would have suggested to QQ that Mr H had insufficient disposable income to repay Loans 13, 13a and 13b.

With regard to Loans 15a and 16, I think it was still reasonable for QQ to rely on the information Mr H had provided about his financial position. He said that he had a disposable income of £1,000 before Loan 15a and £1,174 before Loan 16. But I would also have expected QQ to have supplemented that information by asking Mr H if he had other short term credit commitments. To find out more about these, I've reviewed Mr H's bank statements for the month before he took Loans 15a and 16. I can see that he had taken short term loans totalling around £2,300 in each of those months which would have required repayment around the same time as his loan repayments to QQ. So, if QQ had carried out what I consider to be proportionate checks before Loans 15a and 16, I think it's likely that it would have concluded that Loans 15a and 16 weren't sustainable.

In summary I think the checks QQ did before Loans 14, 14a and 15 were proportionate. But I don't think QQ did enough checks for any of the remaining loans. I think proportionate checks would have suggested to QQ the state of Mr H's finances and that he couldn't afford to sustainably repay Loans 9 to 13b, 15a and 16. So, I think that QQ needs to pay Mr H some compensation relating to Loans 9 to 13b, 15a and 16, along with what it has already offered in relation to Loans 3 to 8. To settle the complaint, I think QQ should refund all the interest and charges applied to Mr H's accounts for Loans 3 to 13b, 15a and 16, and pay 8% simple interest on those refunds from the date of payment to the date of settlement. Any adverse information recorded on Mr H's credit file with regard to those loans should also be removed.

my final decision

My decision is that I uphold this complaint in part. In full and final settlement of this complaint, I order CashEuroNet UK LLC, trading as QuickQuid, to:

- 1 Refund all interest and charges that Mr H paid on Loans 3 to 13b, 15a and 16;
2. Pay interest of 8% simple* a year on all refunds from the date of payment to the date of settlement; and
3. Remove any adverse information about Loans 3 to 13b, 15a and 16 from Mr H's credit file.

*HM Revenue & Customs requires QQ to take off tax from this interest. QQ must give Mr H a certificate showing how much tax it has taken off if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 24 September 2018.

Roslyn Rawson
ombudsman