

complaint

Mr V complains that Trusted Cash Limited, trading as Trusted Quid, ("TQ"), gave him three loans that were unaffordable. The complaint has been brought to this service on Mr V's behalf by a firm of solicitors. But for ease I shall refer below to all actions being taken by Mr V.

background

Mr V took three loans from TQ between July 2015 and February 2016. The loans were repayable by six monthly instalments and all have been repaid. A summary of the loans is as follows:-

Loan number and amount	Date of Loan	Highest loan repayment	Date repaid
1. £250	10/07/2015	£92.04	27/07/2015
2. £950	10/08/2015	£343.11	29/01/2016
3. £1,000	1/02/2016	£385.07	1/06/2016

Mr V said that TQ hadn't carried out reasonable and proportionate checks before agreeing to the loans. He said that if sufficient checks had been carried out, TQ would have realised that Mr V was reliant on payday loans and couldn't afford to repay TQ's loans in a sustainable manner.

TQ said that it had completed an up-to-date income and expenditure analysis before the loans and it had carried out a credit check. It said that the check showed no county court judgements, insolvencies, debt management plans or defaults within the previous six months. It also used statistical data as a guide on expenditure.

our adjudicator's view

The adjudicator didn't recommend that the complaint should be upheld. For Loan 1, she said that TQ had asked Mr V to provide some income and expenditure information, including asking about other payday lending. But she noted that TQ had recorded Mr V's income and his partner's income, rather than Mr V's income alone, as well as household expenditure. But, based on what Mr V had told TQ, she said that the loan repayments would've appeared to be affordable in any case. With regard to Loan 2, the adjudicator said that based on what TQ knew at the time, the repayments would've seemed affordable for Mr V. And whilst the adjudicator said that it would've been better if TQ had reviewed only Mr V's income and costs, rather than the total household amounts, she didn't think this would've changed TQ's lending decision. The adjudicator also said that TQ's checks went far enough for Loan 3.

Mr V disagreed and responded to say that if TQ had carried out proportionate checks, it would have seen that he had eight other payday loans at the time, numerous defaults and a county court judgement. He also noted that TQ had recorded the total household income and expenditure and so it couldn't say that Mr V was able to make repayments out of his own income and savings. Mr V also said that TQ should have been concerned with his reliance on short term loans and that it didn't take account of all his circumstances. There was information that should have been of concern to the lender.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr V and to TQ on 15 March 2019. I summarise my findings:

I'd noted that TQ was required to lend responsibly. It needed to make checks to make sure Mr V could afford to repay the loan before it lent to him. Those checks needed to be proportionate to things such as the amount Mr V was borrowing, the length of the agreement and his lending history. But there was no set list of checks TQ had to do.

I noted that TQ had said that before lending to Mr V, it had carried out a credit check and asked him about his monthly income and expenditure. TQ's records showed that Mr V had declared separate incomes for himself and his partner, but joint household expenditure. I'd asked the adjudicator to ask Mr V if there was any agreement between himself and his partner as to who was responsible for what expenditure. Mr V responded to say that there was no agreement between himself and his partner as to who was responsible for what bills.

Loan 1

I'd noted that Loan 1 was to be repayable by six repayments with a highest repayment of £92.04. Mr V had told TQ that he earned £2,412 and that the household expenditure was £1,866. Mr V had also provided details of his partner's income to TQ.

TQ had said that it had carried out a credit check before Loan 1 but it hadn't been able to provide us with the results of its credit check. But having seen Mr V's credit report, I was not aware of any adverse information such as county court judgements or defaults within the six months prior to the loan that should have caused additional concerns to the lender.

But I'd noted that Mr V's credit report showed that he had four outstanding loans before he'd borrowed Loan 1. But I was also aware that when a lender carried out a credit search, the information it saw didn't usually provide the same level of detail that a consumer's credit search would and it wasn't necessarily up to date. So, this might have explained any differences between the information provided by TQ's credit checks and the information seen by Mr V in his own credit report. I was also aware that not all payday and short term lenders report to the same credit reference agencies. So, Mr V might have taken other payday or short term loans within that period, which might not have been identified by TQ's credit checks.

The expenditure information requested by TQ included housing, council tax, utilities, housekeeping, insurance, phone, travel, credit cards, payday loans, other credit commitments and other commitments. Mr V said that he'd spent £25 on credit card repayments but nothing on payday loans and other credit commitments. Loan 1 was due to be repaid over six months. So that meant the monthly payments Mr V needed to make were much smaller than if he'd taken a normal payday loan, although he was committing to making those repayments over a longer period. I could see that the repayments were relatively modest compared to Mr V's own declared monthly income of £2,412. I'd also noted that Mr V had declared his regular expenditure to be £1,866. So even if Mr V's partner's income wasn't taken into account, Mr V would still have had a disposable income of £546. So the monthly loan repayments of up to £92.04 would have seemed sustainable when compared to his declared disposable income.

I didn't think at that stage of its relationship with Mr V that TQ had any reason to doubt the information he'd provided to it. I thought it was reasonable for TQ to rely on the information Mr V had provided at that stage about his financial situation. And that information suggested

that he was able to afford to repay the loan. There was nothing to suggest that Mr V wasn't using the loan in the way it was intended – as a short term solution to a temporary cash flow problem. So I thought TQ had carried out proportionate checks before lending Loan 1 to Mr V. And I didn't think it was unreasonable for TQ to make the loan without carrying out further checks.

Loan 2

Mr V borrowed Loan 2 a month after taking out Loan 1 and ten days after repaying Loan 1. The loan amount of £950 was substantially higher than his previous loan amount. And the highest monthly repayment over the six months' repayment period was £343.11. So the monthly repayments were significantly higher than the Loan 1 repayments. Mr V had told TQ that the reason for the loan was that he had overspent on holiday. But I thought the increase in the repayment amounts over six months and the fact that Mr V had taken out the loan shortly after repaying Loan 1 might have caused TQ some concerns.

I'd also thought about whether TQ's checks were proportionate before Loan 2. TQ told us that before lending to Mr V, it had asked him about his income and outgoings. Mr V had again declared a monthly income of £2,412 and his partner's income of £1,200. But his declared regular expenditure had significantly increased within a month by £907 to £2,773. Housekeeping expenditure had increased by £450 and other expenditure by £490.

I thought the large increase in Mr V's declared expenditure within such a short period of time might have prompted TQ to ask more questions about the reasons for the increase and the responsibility for expenditure as it was clear that Mr V wouldn't have sufficient disposable income to repay Loan 2 if he was responsible for repaying all the regular expenditure.

But I'd also noted that TQ had carried out a credit check and it had provided this service with the results of that check. In particular I noted that the check showed that Mr V had a loan balance of £3,151 and a credit card balance of £576. He had opened nine new credit accounts in the previous six months. It was possible that some of the loan balance might have included other short term lending. But this wasn't clear to me from the credit check results.

Whilst Mr V had declared credit card repayments of £25 to TQ in his expenditure, I'd noted that he hadn't declared any amount for either payday loans or other credit commitments. I thought the results of its credit check might have suggested to TQ that Mr V was spending more on credit commitments than he'd declared and if so, he might have had a substantially smaller disposable income than he'd declared. And in view of the results of the credit check together with the increased loan repayments which needed to be sustained over six months and the substantially increased household expenditure, overall I thought TQ ought to have gathered a more comprehensive view of Mr V's circumstances and sought some independent verification of these. I couldn't see that it had done this.

Loan 3

Mr V borrowed Loan 3 just two days after repaying Loan 2. It was the second time he'd asked for credit shortly after repaying the previous loan. The loan amount had increased again to £1,000 and the highest monthly repayment over the six months' repayment period had increased to £385.07. Mr V had told TQ that the reason for the loan was for building work. But I thought all this might have caused TQ some concerns and that Mr V's behaviour was an indicator of potential financial difficulties.

I'd again thought about whether TQ's checks were proportionate before Loan 3. Mr V had declared an increased monthly income of £2,501 and his partner's income had increased to £1,400. But the household expenditure had significantly decreased by over £1,500 to £1,268.33. The rent amount had halved and housekeeping expenditure had fallen by £450. There was no amount for credit commitments. I thought the large decrease in rent and other expenditure might have again prompted TQ to ask more questions about the reasons for the decrease, even though Mr V appeared to have sufficient disposable income of his own to repay the loan.

But I'd also seen the results of TQ's credit check. In particular I noted that the check showed that Mr V's loan balance had increased to £4,300 and there was a credit card balance of £406. Mr V had opened seven new credit accounts in the previous six months. It was possible that some of the loan balance might have included payday loans. But this wasn't clear to me from the credit check results.

I'd noted that Mr V hadn't declared any amount for credit commitments. So I'd thought the results of its credit check might have suggested to TQ that Mr V was spending more on other credit commitments than he'd declared and so would have a smaller disposable income than he'd declared. And in view of the results of the credit check together with the increased loan repayments which needed to be sustained over six months and the uncertainty over the accuracy of Mr V's expenditure, overall I thought TQ again ought to have independently reviewed the true state of Mr V's finances before giving him this loan. I couldn't see that it did this.

Although I didn't think the checks TQ did before Loans 2 and 3 were sufficient, that in itself didn't mean that Mr V's complaint about these should succeed. I also needed to see whether what I considered to be proportionate checks would have shown TQ that Mr V couldn't sustainably afford the loans. I thought TQ should have been independently checking what Mr V was earning and spending each month. So I'd tried to do this by looking at Mr V's bank statements at the time of these loans. The bank statements might not have shown TQ everything it would've seen by carrying out proportionate checks. But I thought they were the best indication of Mr V's ability to afford the loans at the time they were approved. So I didn't think it was unreasonable to rely on these.

Loan 2

I'd checked Mr V's bank statement for the month before Loan 2 to see what better checks would have suggested to TQ. Had it done so TQ would have seen that Mr V's income of £2,260 was a little less than declared. His partner transferred £1,335 into the account. I could see that the statement contained expenditure that would most likely be their joint responsibility. But more importantly, if TQ had done what I considered to be proportionate checks, it would also have seen that Mr V was spending more than his income (over £3,100) on gambling and taking out other short term lending (£1,000) to be repaid around the same time as Loan 2. I thought it was likely that TQ would have found out about this had it enquired further into Mr V's circumstances when he'd applied for Loan 2. The amount of this spending rendered any amount of further credit unaffordable and as a responsible lender, I didn't think TQ would have agreed to lend Loan 2 to Mr V if it had done proportionate checks.

Loan 3

I'd also checked Mr V's bank statement for the month before Loan 3 to see what better checks would have suggested to TQ. I thought if TQ had carried out what I considered to be proportionate checks, it would have seen that Mr V was spending substantially more (over £6,200) than his income of around £2,324 on gambling. Mr V was also taking other short term loans (around £1,645) which also would've been used for this purpose. I thought that if TQ had seen evidence of Mr V's gambling and other short term loans, I didn't think it would have lent to Mr V in these circumstances. So, I thought if TQ had undertaken what I considered to be proportionate checks, these would have suggested that Loan 3 wasn't sustainable.

In summary I didn't think TQ had done enough checks before Loans 2 and 3. I thought proportionate checks would have shown TQ the state of Mr V's finances and that he couldn't afford to sustainably repay Loans 2 and 3. So, I thought that TQ needed to pay Mr V some compensation relating to Loans 2 and 3.

To settle the complaint, I thought TQ should refund all the interest and charges applied to Mr V's accounts for Loans 2 and 3, and pay 8% simple interest on those refunds from the date of payment to the date of settlement. Any adverse information recorded on Mr V's credit file with regard to those loans should also be removed.

Subject to any further representations by Mr V or TQ my provisional decision was that I intended to uphold this complaint in part. I intended to order Trusted Cash Limited, trading as Trusted Quid to:

1. Refund all the interest and charges that Mr V paid on Loans 2 and 3;
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 2 and 3 from Mr V's credit file.

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

Both Mr V and TQ responded to my provisional decision to say that they accepted my provisional decision.

my findings

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

Given that both Mr V and TQ have accepted my provisional decision and given me nothing further to consider, I see no reason to depart from the conclusions I reached in my provisional decision. It follows that I uphold part of the complaint and require TQ to pay Mr V some compensation as set out below.

my final decision

My decision is that I uphold this complaint in part. In full and final settlement of this complaint, I order Trusted Cash Limited, trading as Trusted Quid to:

1. Refund all the interest and charges that Mr V paid on Loans 2 and 3;
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 2 and 3 from Mr V's credit file.

*HM Revenue & Customs requires TQ to take off tax from this interest. TQ must give Mr V 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 V to accept or reject my decision before 3 May 2019.

Roslyn Rawson
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