

complaint

Mr D complains that Novaloans Ltd (trading as Cash4unow) didn't carry out proper affordability checks and shouldn't have agreed to lend him 6 loans as he couldn't pay them back.

background

Mr D took out 6 loans between February 2017 and December 2017. A summary of his borrowing is as follows;

Loan Number	Borrowing Date	Instalments	Loan Amount	Highest monthly repayment
1	10/02/2017	5	500	144.09
2	04/04/2017	5	400	123.22
3	08/05/2017	3	300	144.81
4	25/08/2017	4	400	123.22
5	16/10/2017	3	200	90.97
6	22/12/2017	6	500	139.12

Novaloans says it took into consideration Mr D's monthly income, his expenditure and carried out credit searches when it assessed his loan applications. It says Mr D had enough disposable income and could afford the loans.

Our adjudicator felt this complaint should be partly upheld. He said the checks Novaloans carried out for loans 1-4 were proportionate for Mr D. But for loans 5 and 6 he said Novaloans hadn't carried out sufficient checks. He felt if Novaloans had carried out proportionate checks they would have shown Mr D wouldn't have been able to afford them. Our adjudicator also made suggestions for Novaloans to put things right regarding these 2 loans.

As both parties still can't agree, this complaint has been passed to me to make a 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.

I think the overarching questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did Novaloans, at the time it lent, complete reasonable and proportionate checks to satisfy itself that Mr D would be able to repay in a sustainable way?
 - If not, would those checks have shown that Mr D would have been able to do so.

- Taking into account the short-term purpose of the loans provided, did the overall pattern of lending increase Mr D's indebtedness in a way that was otherwise unsustainable or harmful?
- Did Novaloans act unfairly or unreasonably in some other way?

If I determine that Novaloans did not act fairly and reasonably in its dealings with Mr D and that he has lost out as a result, I will go on to consider what is fair compensation.

Novaloans was required to lend responsibly. It needed to make checks to see whether Mr D could afford to pay back the loans before it lent to him. Those checks needed to be proportionate to things such as the amount Mr D was borrowing and the length of the agreement. But there was no set list of checks Novaloans had to do.

Novaloans says it asked about Mr D's income and expenditure and carried out credit checks for each of the 6 loans. It says it relied on the information he gave.

I think the checks Novaloans carried out on loans 1--4 went far enough. The monthly loan repayments appeared affordable on the information Novaloans had available on each occasion. I don't think it would have seen anything that would have alerted it to carry out any further checks for each of the first 4 loans and from the information it had I think it would have seen that all 4 loans were affordable for Mr D.

Mr D took out loan 5 on 16/10/2017 and by this stage he'd been borrowing regularly and in quick succession. I think Mr D's pattern of borrowing at this point suggested he may've been becoming reliant on short term credit. I think it would've been reasonable and proportionate for Novaloans to have asked further questions and carried out more checks. I think it should have done so for the loan application for loan 6 also.

I think Novaloans should have been looking to carry out a complete review of Mr D's finances. If it had carried out further checks on loan 5 and 6, it would have seen he had a number of other payday loan commitments on top of his self declared expenditure. And it would have also seen that Mr D had significant gambling transactions. When these additional amounts are considered alongside Mr D's normal living costs, then it is clear to me that he had no disposable income in order to meet the monthly repayments for loans 5 and 6. These two loans weren't sustainable.

Taking everything into account I don't think Novaloans has shown its checks for loans 5 and 6 were sufficient or proportionate given Mr D's borrowing history or, the amounts borrowed. I consider proportionate checks would have shown Novaloans that Mr D couldn't afford to repay the two loans. On balance I don't think these 2 loans should've been granted. So Novaloans should put right what it did wrong.

putting things right

I don't think Novaloans should have agreed to give Mr D loan 5 or Loan 6. So Novaloans should;

- Refund any interest and charges applied to each of the two loans.
- Add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement*.
- Remove any adverse information recorded on Mr D's credit file in relation to the two loans.

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

It is my understanding that Mr D still owes Novaloans some of the principal balance he borrowed on his final loan. Novaloans may deduct this from the compensation that is due to him. But, to be clear, that outstanding balance should be recalculated to remove any interest and charges, taking account of any repayments Mr D has made on that loan as though they were applied against the principal sum borrowed.

my final decision

My final decision is that I partly uphold Mr D's complaint and direct Novaloans Ltd to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 7 April 2019.

Mark Richardson
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