Financial Ombudsman Service

complaint

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

background

Mr B was given nine loans by QuickQuid between May 2013 and March 2017. The first loan was repayable in two monthly instalments. The remaining loans were repayable in three monthly instalments. All of Mr B's loans have been fully repaid. A summary of Mr B's borrowing from QuickQuid is as follows;

Loan Number	Borrowing Date	Repayment Date	Loan Amount
1	06/05/2013	31/05/2013	£ 300
2	31/05/2013	28/06/2013	£ 400
3	03/07/2013	30/09/2013	£ 450
4	30/09/2013	19/10/2013	£ 450
5	31/05/2015	18/08/2015	£ 300
6	18/08/2015	18/11/2015	£ 100
7	03/12/2015	18/04/2016	£ 400
8	23/06/2016	18/10/2016	£ 100
9	17/03/2017	19/07/2017	£ 200

When it first considered Mr B's complaint QuickQuid accepted that it shouldn't have given him four of the loans – loans 2, 3, 4 and 7. So it offered to refund the interest and charges Mr B had paid on those loans. Mr B didn't accept that offer so brought his complaint to this Service.

Mr B's complaint has been assessed by one of our adjudicators. She thought that the offer QuickQuid had made was fair in respect of those loans. So she only considered whether it had been right for QuickQuid to offer the remaining loans to Mr B. She thought that the checks QuickQuid had done before offering loan 6 were proportionate. But she thought that QuickQuid should have done more before agreeing the rest of the loans. And she thought that better checks would have shown QuickQuid that loans 5 and 9 were also unaffordable for Mr B. So she asked QuickQuid to pay some additional compensation to Mr B.

QuickQuid doesn't agree with that assessment. So, as the case hasn't been resolved informally it has been passed to me, an ombudsman, to decide.

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've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

QuickQuid was required to lend responsibly. It needed to make checks to see whether Mr B could afford to pay back each loan before it lent to him. Those checks needed to be proportionate to things such as the amount Mr B was borrowing, and his lending history, but there was no set list of checks QuickQuid had to do.

The first four loans were given when QuickQuid was regulated by The Office of Fair Trading (OFT). Its guidance was clear about the responsibility of the lender to take reasonable steps to ensure that a borrower could *sustainably* repay their loans. The OFT's Irresponsible Lending Guidance states *"Assessing affordability is a borrower-focussed test which involves 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 goes on to say that repaying credit in a sustainable manner means being able to repay credit *"out of income and/or available savings"* and without *"undue difficulty."* And it defines *"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"*

The Financial Conduct Authority was the regulator at the time Mr B took the rest of his loans from QuickQuid. Its regulations for lenders are set out in its consumer credit sourcebook (generally referred to as "CONC"). These regulations – in CONC 5.3.1(2) - require lenders to take "*reasonable steps to assess the customer's ability to meet repayments under a regulated credit agreement in a sustainable manner without the customer incurring financial difficulties or experiencing significant adverse consequences."* CONC 5.3.1(7) defines 'sustainable' as being able to make repayments without undue difficulty. And explains that this means borrowers should be able to make their repayments on time and out of their income and savings without having to borrow to meet these repayments.

So, the fact that some of the amounts borrowed and the repayments might have been low in comparison with Mr B's income, or that he managed to repay them in full and on time, doesn't necessarily mean the loans were affordable for him and that he managed to repay them in *a sustainable manner.* In other words I can't assume that because Mr B managed to repay his loans that he was able to do so out of his normal means without having to borrow further.

QuickQuid has shown us the checks that it did before lending to Mr B. QuickQuid checked Mr B's income before giving him the loans and asked him about his expenditure from loan 5 onwards. QuickQuid also did a credit check before seven of the loans. Although I've not seen all the results of those credit checks I'm not aware of anything on Mr B's credit file that I think should have caused QuickQuid additional concerns about his financial situation.

I agree with our adjudicator that the offer QuickQuid has made is fair in relation to the four loans it agrees shouldn't have been given to Mr B. And I think that QuickQuid should have been aware that the repayments on these loans weren't affordable for Mr B. So except for directing QuickQuid to pay that compensation later in this decision I won't make any other findings on those loans. But I will, of course, take account of them when looking at what QuickQuid knew about Mr B.

The first loan that Mr B took from QuickQuid was for £300. This was a substantial proportion of the income that he'd declared to the lender. So I don't think the checks QuickQuid did here were enough. I think it should have gathered a more detailed view of Mr B's finances including asking him for details of his normal expenditure, and any outstanding loans that he was repaying (both short and long term).

When Mr B asked for his fifth loan he hadn't borrowed from QuickQuid for almost 18 months. So that might have given QuickQuid some reassurance that his finances were in better shape than they had been in 2013. Mr B's income had also gone up, and the information that QuickQuid gathered about his expenditure suggested that he had around £450 each month left over to repay any lending. I think QuickQuid might have asked some more detailed questions about Mr B's expenditure here, and in particular specific questions about any other short term finance he was taking at the same time.

And I think the same type of checks would have been appropriate before giving Mr B his next loan (loan 6). Although the amount he was asking to borrow was much less, he made this request on the same day he'd repaid his previous loan. I think QuickQuid should have been concerned that Mr B was once more becoming dependent on its lending.

By the time he asked for his last two loans, Mr B had been constantly borrowing from QuickQuid for over a year. I think this should have suggested to QuickQuid that it couldn't safely rely on the information Mr B was providing about his finances. I think QuickQuid should have taken steps to independently verify Mr B's true financial position before giving him these loans.

But although I don't think the checks QuickQuid did were sufficient, that in itself doesn't mean that Mr B's complaint should succeed. I'd also need to be persuaded that what I consider to be proportionate checks would have shown QuickQuid that Mr B couldn't sustainably afford the loans. So I've looked at Mr B's bank statements, and what he's told us about his financial situation, to see what better checks would have shown QuickQuid.

In 2013 Mr B's bank statements show little household expenditure. Mr B was spending heavily on what appear to be gambling transactions. But I don't think these would have been seen by QuickQuid if it had conducted the checks I've described earlier – checks that I think would have been proportionate at that time. So I don't think proportionate checks would have suggested to QuickQuid that Mr B couldn't afford the repayments on this loan – it wasn't wrong to give him this loan.

By the time of loan 5, I think QuickQuid should have been supplementing the information it received from Mr B about his normal expenditure, with details of any other short term lending that he was taking at the same time. But looking at Mr B's bank statements I can't see any other short term lending that he needed to repay that was outstanding when he took the QuickQuid loan. So I think it was reasonable for QuickQuid to solely rely on the disposable income that Mr B had declared.

As I said earlier this loan was repayable over three months. Mr B only needed to repay the interest on the loan, until the final repayment when he paid both the interest for that month and the capital he'd borrowed. So the last repayment was much larger than those before.

QuickQuid has said that this repayment structure allowed Mr B the opportunity to manage his finances so that he could save some excess disposable income in the early months ready to help make the larger final repayment. It says this would make the loan more affordable for Mr B. But I don't agree with that.

The loans Mr B took carried a high interest rate. I think if Mr B was planning to "save" each month to help make his final repayment, as a responsible lender, QuickQuid would have structured the loans so Mr B repaid some of the principal each month, and so reduced the cost of his lending. And I think that the frequency with which Mr B had borrowed in the past might have caused some concerns to QuickQuid over his ability to manage his finances with the discipline that was needed to repay the loan in this way.

So I think it is fair and reasonable to consider whether Mr B was able to afford each repayment in isolation. And based on the information that he provided to QuickQuid I don't think the final repayment was sustainably affordable for Mr B. He would have little disposable income left over after making the repayment. And when gathering this disposable income QuickQuid was asking Mr B to predict his expenditure three months in the future. So I don't think it was reasonable for QuickQuid to conclude this loan was affordable for Mr B.

The eighth loan that Mr B took from QuickQuid was relatively small. It appears that the expenditure Mr B declared to QuickQuid was relatively correct when I compare this to his bank statements. And there wasn't any other expenditure at that time, such as other lending or gambling transactions, that I think QuickQuid would have seen from an independent review of Mr B's finances. So I think it was reasonable for QuickQuid to conclude this loan was affordable for Mr B.

But by the time Mr B asked for his final loan in March 2017 he appears to have been gambling heavily again. In the previous month he'd spent over double his normal income on what appear to be gambling transactions. I think that QuickQuid would have seen this level of spending if it had done what I consider to be proportionate checks and so wouldn't have agreed to give this final loan to Mr B.

So overall I think that what I consider to be proportionate checks would have shown QuickQuid that Mr B couldn't sustainably afford to repay loans 5 or 9, in addition to those it has already identified as being unaffordable (loans 2, 3, 4 and 7). So QuickQuid needs to pay Mr B some compensation.

putting things right

I don't think QuickQuid should have agreed to give Mr B loans 2 to 5, loan 7, or loan 9 as shown in the table earlier in this decision. So for each of those loans CashEuroNet should;

- Refund any interest and charges applied to the 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 B's credit file in relation to the loans.

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

my final decision

My final decision is that I partly uphold Mr B’s complaint and direct CashEuroNet UK LLC to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr B to accept or reject my decision before 12 February 2018.

Paul Reilly
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