complaint

Mr M has complained about short-term loans granted to him by CashEuroNet UK LLC trading as Quick Quid ("Quick Quid" or "the lender").

background

I set out the circumstances leading to this complaint and my initial conclusions in a provisional decision to both parties in January. I have included a copy of my provisional decision in this final decision, so I won't repeat the content here.

Quick Quid agreed seven loans for Mr M from August 2015 to July 2016. The amounts ranged between £50 and £700, and all were to be repaid over three months, as per the summary table in my provisional decision. I provisionally concluded that Quick Quid was irresponsible to lend to Mr M from and including his third loan taken out in September 2015.

Quick Quid disagreed with this outcome and said:

"We'd like to reiterate that there were substantial breaking periods ranging between 15-58 day between loans, whilst the loan amounts funded to Mr [M] fluctuated for lesser amounts. We'd also like to point out that 4 of these loans were repaid early which saved Mr [M] £727.60 in interest costs due to our no prepayment penalty benefit for our consumers; these factors exhibits a clear lack of loan dependency/debt spiralling"

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 have addressed the above points from Quick Quid in detail in my provisional decision. Without any further comment or new information from either party, I'm continuing to partially uphold Mr M's complaint for the reasons set out in my provisional decision.

what Quick Quid should do to put things right

I've concluded that Quick Quid was irresponsible to lend to Mr M from and including his third loan taken out in September 2015. In order to put Mr M back in the position he would have been in had this not happened, Quick Quid should:

- refund all interest and charges for Mr M's loans agreed after this point, namely loans 3 to 7 as set out in the summary table of my provisional decision;
- pay interest on these refunds at 8% simple* per year from the dates of payment to the dates of settlement;
- remove any adverse information about these loans from Mr M's credit file;

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

my final decision

I uphold Mr M's complaint in part and require CashEuroNet UK LLC trading as Quick Quid to put things right for him as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 11 April 2019.

Michelle Boundy
ombudsman

COPY OF PROVISIONAL DECISION

complaint

Mr M has complained about short-term loans granted to him by CashEuroNet UK LLC trading as Quick Quid ("Quick Quid" or "the lender").

background

Quick Quid agreed seven loans for Mr M from August 2015 to July 2016. The amounts ranged between £50 and £700, and all were to be repaid over three months. The table below summarises some of the information that Quick Quid provided about these loans.

No.	Start	Repaid	Principal	Payment 1	Payment 2	Payment 3	Interest & charges paid**
1	01/08/2015	08/08/2015	£350	£76	£87	£434	£20
2	29/08/2015	04/09/2015	£500	£120	£120	£620	£24
3*	12/09/2015	01/10/2015	£550	£69	£132	£682	£82
4	28/11/2015	03/12/2015	£50	£12	£12	£62	£2
5	08/12/2015	26/02/2016	£50	£8	£12	£61	£46
6	12/03/2016	28/05/2016	£250	£24	£70	£308	£167
7	01/07/2016	28/09/2016	£700	£151	£162	£885	£498

** This is the total loan amount – an initial amount of £350 was agreed on the 12th of September and a further advance of £200 on the 13th brought the total to £550.*
*** Based on the account information provided by Quick Quid.*

Mr M says that Quick Quid was irresponsible to lend to him because the loans were unaffordable for him. Quick Quid disagrees that it was irresponsible to lend and says:

- After 1 March 2015 it carried out appropriate and proportionate affordability assessments in line with the regulator's guidance and, as Mr M's loans were issued after this date, they were affordable.
- There were substantial "breaking periods" or gaps ranging from 15 to 58 days between loans, and the loan amounts funded to Mr M fluctuated.
- Mr M repaid four of his loans early and this showed a clear lack of loan dependency or debt spiralling.
- Its lending process included a customer declaration that acknowledged when a loan repayment was greater than the customer's estimated disposable income, along with a suggestion that they save to meet the repayment.

Our adjudicator found that Quick Quid's affordability checks weren't proportionate in all instances and that, had proportionate checks been carried out, the lender would have seen that Mr M couldn't afford the loans primarily due to his extensive spending on gambling. They recommended that his complaint be upheld and that Quick Quid refund the interest and charges he paid on all his loans.

Quick Quid didn't agree with this recommendation and so the case has come to me, as an ombudsman, for a final decision.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I have also taken into account the law, any relevant regulatory rules and good industry practice at the time.

Having done so I plan to partially uphold Mr M's complaint and ask Quick Quid to refund the interest and charges he's paid on loans 3 onwards. I appreciate that this will be disappointing for Quick Quid, and for Mr M also to some extent as our adjudicator recommended that we uphold his complaint about all his loans. I hope my explanation below makes it clear why I have come to this conclusion.

<u>post-2015 affordability assessments</u>

Quick Quid first mentioned this argument in its business submissions to us and again in response to our adjudicator's view. In the view, our adjudicator said:

"I note what you've said about the loans Mr [M] *borrowed from 2015 onwards, however our job is to look not only into the rules and regulations set by the regulator at the time of borrowing but also the law, good industry practice and all the available evidence and arguments to help us decide whether we think what the business has done is right or not."*

I fully agree with this point. As Quick Quid is no doubt aware, this Service is required to take into account wider considerations in making determinations on complaints. As the Financial Conduct Authority (FCA) Handbook sets out in the rules and guidance relevant to dispute handing
*"The Ombudsman will determine a complaint by reference to what is, in his opinion, fair and reasonable in all the circumstances of the case." (*DISP 3.6.1R)

And DISP 3.6.4R goes on to explain that

"In considering what is fair and reasonable in all the circumstances of the case, the Ombudsman will take into account:

(1) relevant:

(a) law and regulations;

(b) regulators' rules, guidance and standards;

(c) codes of practice; and

(2) (where appropriate) what he considers to have been good industry practice at the relevant time."

So, I am required to consider more than the rules and guidance set out by the regulators in making my determination on a complaint. And I would not be acting in accordance with my statutory role if I *only* considered the extent to which Quick Quid complied with rules and guidance set out by the FCA in my determination.

Looking at the rules and guidance that were in place at the time, the FCA was the regulator when Quick Quid lent to Mr M. The FCA's Principles for Business ("PRIN") set out the high level standards which all authorised firms are required to comply with. PRIN 2.1.1 R (6) says "*A firm must pay due regard to the interests of its customers and treat them fairly."*

The FCA's Consumer Credit sourcebook (CONC) is the specialist sourcebook for credit-related regulated activities. It sets out the rules and guidance specific to consumer credit providers, such as Quick Quid. At the time, August 2015, these required 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 5.3.1G(2).

However, the FCA was not prescriptive about exactly how the relevant rules and guidance set out in CONC should be implemented. Specifically CONC does not set out how a lender ought to go about its affordability assessment. The regulations are clear, however, that the assessment needed to be proportionate to the circumstances of the lending and it needed to be customer-focussed, whatever the extent and scope of it or whatever type or source of information it used. And so I cannot pre-judge Mr M's complaint about irresponsible lending on the basis that the affordability checks Quick Quid carried out were the right thing to do for all customers in all circumstances as it had due regard to the regulations because the regulations do not contain this level of detail.

And finally, it doesn't follow that a firm cannot have treated any consumer unfairly simply because it has been authorised and is regulated by the FCA. This assumes that an authorised firm's regulated activities are always implemented in a way that results in fair outcomes for all consumers. This is not the case, as the experience of this Service bears out.[1]

gaps and early repayment

Quick Quid says that the existence of gaps in lending does not typically demonstrate dependency on the credit. It said that there were substantial breaking periods or gaps ranging from 15 to 58 days between Mr M's loans. And that the amounts he borrowed varied and he repaid some of his loans early.

Firstly, I can accept that where there is a period of time between someone repaying a loan and applying for another one, it might be reasonable to conclude that their immediate funding shortfall had been met and that they were not relying on high-cost short-term credit to meet an ongoing need. And so it might be proportionate for a lender to carry out less stringent checks or gather less information than might be expected for an affordability assessment prior to or in the absence of such a gap.

However, I don't think there is an absolute figure for the length of gap that signifies a dependency on such credit or one that signifies a lack of dependency. I am likely to view a gap of one or two pay cycles differently to a gap of a year. But my conclusions about what a gap might signify will depend on the circumstances of the consumer and the particulars of the lending relationship.

In Mr M's case there was a gap of about two months between loans 3 and 4, and a gap of about one month between loans 6 and 7. I don't think the second gap is significant – at that point Mr M had been borrowing from Quick Quid for almost 10 months and this was the largest amount that he'd applied for. So I don't think it's reasonable for Quick Quid to conclude that Mr M wasn't dependent on its loans at that stage because he hadn't applied for credit for a month.

However, I have some sympathy with Quick Quid's viewpoint regarding the earlier gap because of how Mr M managed his credit prior to applying for his fourth loan and because of the relatively low value of the fourth loan at £50. As Quick Quid pointed out, Mr M repaid his first three loans early. To be clear - Mr M repaying his loans early doesn't automatically mean that he managed to repay them in a *sustainable* manner, in other words without having to borrow again to make up the gap this left in his funds, borrow from elsewhere or go without. That said, he repaid the first two loans within a week of them being agreed, the third within three weeks, and all of these loans had a term of approximately three months.

However, I've also considered the other information Quick Quid held about Mr M at this point. Mr M told Quick Quid about his income and expenses when he applied for his loans. I understand Quick Quid ran a credit check each time Mr M applied for a loan (and also for reasons unknown in mid-October 2015, about half-way between Mr M's third and fourth loan). Based on all of this information, the lender calculated a 'monthly estimated disposable income' or monthly EDI figure which says it used in its affordability calculations. Some of this information is set out in the table below.

[1] http://www.ombudsman-complaints-data.org.uk

	From Mr M			
No.	Income	Expenses	Disposable income	monthly EDI
1	£1,300	£625	£675	£564
2	£1,300	£625	£675	£373
3	£1,300	£625	£675	£373
4	£1,300	£625	£675	£41
5	£1,300	£625	£675	£41
6	£1,300	£625	£675	£190
7	£1,300	£425	£875	£503

Quick Quid estimated Mr M would have £41 a month of disposable income when considering whether or not to agree his fourth and fifth loans. This is a considerable drop from his previous estimated disposable income figures and is suggestive of an increase in borrowing elsewhere. So I don't think that in this case Quick Quid could reasonably consider that Mr M wasn't dependent on credit to manage his finances, notwithstanding the gap before applying for his fourth loan.

<u>saving to meet repayments</u>

Quick Quid says that where the final payment of a loan exceeds the *'validated estimated disposable income'* for that last month, the customer must read and check a box that advises them of the fact that they may need to save income from the previous months in order to have sufficient funds to pay the final payment.

The declaration states:

"By checking this box you acknowledge you can afford to make a repayment of [£X] *on* [date] *and* [£Y] *on* [date]. *You acknowledge that you understand your final repayment is greater than you*[r] *normal disposable income and you may need to save money over the life of the loan in order to make the final repayment out of disposable income."*

As mentioned, Quick Quid has provided what it calls 'monthly estimated disposable income figures' for each of Mr M's loans, though it hasn't explained how it has produced these numbers. And I don't know how this relates to the 'validated estimated disposable income' figure. But even assuming Mr M did in fact see this declaration, I don't know the context within which it appeared or how prominent it was. And, irrespective of this, advising Mr M that he may need to take some action in order to be able to make a repayment that is more than the money he would usually have available to him does not take away Quick Quid's own responsibility to assess whether or not the loan was going to be sustainably affordable for him.

If Quick Quid felt that in Mr M's case he'd need to take some action to meet his loan repayments as they fell due, this suggests that it understood that there *was* a risk that he would not be able repay his loan the way it was structured unless remedial action was put in place. It then left this to Mr M to address. It didn't, for example, offer to structure the loan repayments to reflect its expectations of Mr M's money management – for all of Mr M's loans the final contractual repayment is far larger than the previous two.

I can accept that in some circumstances, where the shortfall in disposable income is small, it might be reasonable to proceed with an application on the basis that the additional cost of the final large loan repayment (balloon payment) could be met without difficulty by some level of surplus or saving from previous months. And especially so where there is no history of borrowing or other indications that a consumer might not be in a position to save or have surplus income from earlier months.

So, for example, it might have been reasonable for Quick Quid to decide to agree Mr M's first loan on the basis that he could potentially save to meet the final loan repayment as there was nothing at the time to indicate that he wouldn't be able to do so. However, Mr M took out his second loan within three weeks of repaying his first, and his third in just over a week after repaying his second. This doesn't suggest to me that Mr M had recourse to spare funds. And I think Quick Quid ought to have taken this behaviour into account when granting further loans with a similar structure.

did Quick Quid carry out proportionate checks and, if not, what would proportionate checks have revealed?

Bearing all the above in mind, I think the checks Quick Quid carried out went far enough for Mr M's first loan. Our adjudicator concluded that this loan was unaffordable but hadn't considered whether it was reasonable for Quick Quid to conclude that Mr M wouldn't be in a position to meet his loan repayments when they were due. I don't think this was an unreasonable basis for lending as this was Mr M's first loan, taking into account what he told Quick Quid about his circumstances and information from the lender's own checks and calculations. And so I don't find that Quick Quid lent irresponsibly here.

Looking ahead to loans 4 and 5 - as I've mentioned above, the monthly estimated disposable income Quick Quid calculated for these loans was very low (£41) relative to its figures for Mr M's earlier loans. I think it ought to have done more here to satisfy itself that Mr M was able to afford to repay these loans in a sustainable manner, notwithstanding that there was a couple of month's gap before Mr M asked for his fourth loan. As our adjudicator explained, had Quick Quid looked to form a more comprehensive understanding of Mr M's circumstances at this point, it would likely have learned that he was spending a large amount of money relative to his (actual) monthly income (and at times exceeding it) on gambling.

But even before considering this, given the size of the loan repayments and the information the lender had estimated to be Mr M's disposable income, I think loans 4 and 5 were foreseeably not sustainable for him. As someone who was renting and working, it wouldn't take very much unexpected or seasonal expense over a three month period to leave Mr M in the position of having to borrow to meet his loan repayments. So I don't think Quick Quid was responsible to agree these two loans.

The monthly disposable income figure Quick Quid calculated for loans 2 and 3 was £373, more than the later loans but less than the £564 it calculated for his first loan. I've had a look at these figures in more detail – see the below table. I have considered these figures carefully as the final repayment for Mr M's second loan is £620, which is about 1.75 times the amount Quick Quid calculated that he would have available monthly.

It's debateable for me whether or not Quick Quid ought to have done more here to check that this second loan would be affordable for Mr M in a sustainable way. Bearing in mind that Mr M repaid his first loan within a week and that this was still early on in their lending relationship, I am giving Quick Quid the benefit of the doubt here and have concluded that I don't think it was unreasonable of it to have agreed this loan. And I've noted that Mr M again repaid this within a week.

Quick Quid's figures								
No.	Payment 1	Payment 2	Payment 3	Total repayment	Monthly EDI	Loan term in months	Term EDI	Total as % of Term EDI
2	£120	£120	£620	£860	£373	3.1	£1,156	74%
3a	£45	£84	£434	£563	£373	2.6	£970	58%
3b	£69	£132	£682	£883	£373	2.6	£970	91%

Turning to Mr M's third loan – this was initially for an amount of £350, with a total repayment of £563. Mr M asked for a further advance the next day, which was granted. This left him with a higher final payment of £682 and, it seems, needing to repay more than 90% of his estimated disposable income over the term of the loan. Quick Quid has told us that one of its internal lending rules is that the total repayment during the loan chain cannot exceed 80% of the customer's total estimated disposable income for the duration of the loan term. I'm not sure how this additional advance wasn't caught by this rule. But, given that this would potentially leave Mr M with less than £90 over three months to manage any unexpected or seasonal costs, again as with loans 4 and 5, I can't agree that this was a responsible lending decision.

Mr M asked for a sixth loan within about two weeks of repaying his fifth, and it was for an amount of £250. When he repaid this, he asked for his final and largest loan of £700 about a month later. On each of these occasions, I think Quick Quid ought to have done more to understand Mr M's situation. The information he provided about his circumstances didn't change, and he was borrowing increasing amounts in relatively quick succession.

As our adjudicator has explained in detail, had the lender looked further into Mr M's circumstances it was likely to have discovered at this point, if not before, that Mr M was spending large sums on gambling, in other words more than his actual monthly salary at times. Mr M mentioned this in his complaint to Quick Quid saying that he was using its loans to fund his gambling. And, armed with this understanding which I think it's likely it would have at this point had it carried out proportionate checks, I don't think Quick Quid as a responsible lender, would have agreed these two loans for him. I understand Mr M arranged a repayment plan for his seventh loan and Quick Quid declined to lend to him after this.

in summary

Quick Quid shouldn't have agreed loans 3, 4 or 5 for Mr M on the basis of the information it had available to it. And it ought to have done more to assess the affordability of loans 6 and 7 for Mr M. Based on the information it had and what it was likely to have found out, it wouldn't have agreed to any of these loans. And so I am upholding Mr M's complaint about these.

what Quick Quid should do to put things right

As I've concluded, Quick Quid was irresponsible to lend to Mr M from and including his third loan taken out in September 2015. In order to put Mr M back in the position he would have been in, Quick Quid should:

- refund all interest and charges for Mr M's loans agreed after this point, namely loans 3 to 7 as set out above;
- pay interest on these refunds at 8% simple* per year from the dates of payment to the dates of settlement;
- remove any adverse information about these loans from Mr M's credit file;

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

my provisional decision

I intend to uphold Mr M's complaint for the reasons given above and require CashEuroNet UK LLC Limited (trading as Quick Quid) to put things right as I've set out.

I'll wait two weeks to see if either party has anything further to add – before considering my decision on this complaint once more.