

complaint

Mr R has complained about loans granted to him by CashEuroNet UK LLC trading as Pounds to Pocket ("Pounds to Pocket"). He's said they were unaffordable for him.

background

Pounds to Pocket says it agreed nine loans for Mr R during the period March 2012 to December 2013. It says these were instalment loans *ie* the principal was to be repaid over several months, in this case usually around 12. The following table summarises some of the information Pounds to Pocket provided about these loans:

Loan number	Date agreed	Date repaid	Amount
1	05/03/2012	25/04/2012	£700
2	17/05/2012	08/09/2012	£1,000
3	14/10/2012	31/12/2012	£1,000
4	03/01/2013	22/01/2013	£1,100
5	22/01/2013	31/01/2013	£1,100
6	01/02/2013	29/04/2013	£1,100
7	02/05/2013	13/05/2013	£1,100
8	05/11/2013	13/12/2013	£1,100
9	29/12/2013	03/06/2014	£1,150

Mr R says Pounds to Pocket should've realised the loans it gave him were unaffordable. He says he was experiencing severe financial difficulties during this period. He had a serious gambling problem which had caused him to fall into debt with many of his creditors – including several other short term lenders. He also had an existing relationship with Pounds to Pocket's sister company and had a proven record of struggling to make his repayments.

One of our adjudicators looked into his complaint and said she didn't think the checks Pounds to Pocket carried out from the second loan onwards were proportionate. And after looking at Mr R's circumstances at the time of each loan, she thought that none of those loans were affordable for Mr R. So she said Pounds to Pocket should refund the interest and charges on all of the loans, except the first, including paying interest on those amounts, to put things right.

Pounds to Pocket disagreed with our adjudicator's assessment. It said it did carry out proportionate checks in line with the regulatory requirements of the time. It says it checked Mr R's credit file before approving each loan, as well as asking Mr R about his income. However, Pounds to Pocket made an offer to Mr R in an attempt to reach a full and final settlement of his complaint. It offered to refund the interest and charges for loans 7 - 9, as well as paying the original 'good will gesture' of £200 it had offered Mr R before he came to our service. Mr R didn't want to accept Pounds to Pocket's offer, so the complaint has been passed to me for a final 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've also taken into account the law, any relevant regulatory rules and good industry practice at the time.

Based on everything I've seen, I agree Pounds to Pocket carried out proportionate checks on the first loan. But I think it should've carried out further checks for each of the subsequent loans. And if it had, I think it would've seen that Mr R couldn't afford to repay loans 2 - 9. I'll explain why in more detail.

Pounds to Pocket was required to lend responsibly, which means it needed to check that Mr R could afford to repay his loans sustainably. There was no set list of checks it needed to do, but the checks should've been proportionate to the circumstances of each loan. These might include considerations about the amount borrowed, the associated cost and risk to Mr R, his borrowing history including any indications that he might be experiencing (or had experienced) financial difficulty, and so on.

In response to our adjudicators' assessment, Pounds to Pocket pointed out that at the time of lending it was regulated by the Office of Fair Trading ("OFT"). It says it wasn't required to gather information about Mr R's expenditure, and was entitled to rely on the information he gave when deciding whether to lend.

I've thought about this point carefully, but the OFT Guidance states that "*creditors should take reasonable steps to assess borrower's likely ability to be able to meet repayments under the credit agreement in a sustainable manner*". It also states that "*this is likely to involve more than solely assessing the likelihood of the borrower being able to repay the credit in question*".

The guidance doesn't specifically say that Pounds to Pocket *needed* to gather information about Mr R's expenses for every loan. But it clearly states that meeting repayments in a sustainable manner means repaying credit out of existing income and/or savings while also meeting other debt repayments and normal outgoings. And it lists examples of sources of information to assess affordability – these include: record of previous dealings with the borrower, evidence of income, evidence of expenditure, a credit score, a credit report from a credit reference agency and information obtained from the borrower.

Mr R took out his first loan with Pounds to Pocket in March 2012 for £700. Pounds to Pocket says Mr R's stated income was over £3,000 per month. It says this information was put into its credit model, and Mr R was given a score that was above the minimum threshold for the credit to be given. It says this meant the credit was affordable, and it wasn't unfair for it to give it to him. I haven't seen the results of this check, so I don't know what information it's likely to have seen at the time. But I've seen a record which indicates that a check was completed.

From the information I've seen, it appears that Mr R had a small number of accounts that had been defaulted in 2011. And another couple that had been in debt management plans. But these had all been settled by the time of this application. I don't know whether Pounds to Pocket's credit search would've shown these accounts. But even if it had, I don't think this, on its own, would've been enough to mean that Pounds to Pocket needed to carry out further checks.

As this was Mr R's first loan, I agree that Pounds to Pocket was entitled to rely on the figure he gave for his income. And the maximum monthly repayment on this loan would've been for a fairly small proportion of his income, around £100. So taking everything I've seen into account, I think the checks Pounds to Pocket carried out for the first loan were proportionate.

Mr R took out his second loan in May 2012 for £1,000. By this point, he'd borrowed four times, between Pounds to Pocket and its sister company, over a period of two years. And he was applying for this second, larger loan so shortly after repaying his first loan early. So at this stage, I think Pounds to Pocket should've carried out further affordability checks before agreeing to lend, such as by asking Mr R about his regular monthly expenses. This would've allowed it to get a better understanding of his financial situation and his ability to repay sustainably.

Based on what I've seen of Mr R's circumstances at the time of this loan, the figure he gave Pounds to Pocket for his income was fairly accurate. However, he had several other large debts he needed to repay. And taking those expenses into account, alongside his regular outgoings, he wouldn't have been able to afford the maximum monthly repayment on this loan – around £150. So, had Pounds to Pocket carried out proportionate checks, I think it would've discovered this, and as a responsible lender, I don't think it would've agreed this loan.

Between taking his second and third loans, Mr R contacted Pounds to Pocket and gave it some information about his financial situation. He told it he had numerous other debts totalling many thousands of pounds. He explained he'd made token offers of repayment to his creditors, until his situation improved. But he also explained that his father was prepared to settle his short term lending commitments for him, over the next three months. Mr R also asked that Pounds to Pocket not lend to him again.

Following this, Pounds to Pocket continued to approve loans for Mr R. But given what he'd told it previously, I think that Pounds to Pocket needed to carry out further checks before approving each of the following loans. I say this because Pounds to Pocket couldn't ignore the information Mr R had given it – which was more than just an indication that he was experiencing financial difficulties.

Taking that information into account, I think it would've been responsible and proportionate for Pounds to Pocket to build a full picture of Mr R's ability to repay, so it could be sure that his situation had improved, before it agreed to lend again. There are many ways it could've

done this. For example, it could've asked for payslips to verify the information Mr R had given about his income. And it could've asked him for his bank statements to verify his regular expenditure, other financial commitments and any other short term lending he needed to repay.

If Pounds to Pocket had done this, it would've seen that Mr R had many other short term loans outstanding, just as he'd said when he told Pounds to Pocket about his situation. And it would've also seen that most of his income was used to fund what he's described himself as a '*severe gambling problem*'. So, from what I've seen of Mr R's circumstances at the time, his income wasn't sufficient to meet all of his regular expenses alongside his other financial commitments and basic living costs. And I think Pounds to Pocket would've seen this if it had carried out more proportionate checks.

I've thought carefully about what Pounds to Pocket has said about Mr R '*misapplying funds to non-essential spending, like gambling*'. But I don't think it matters whether the spending was essential or not. The fact remains that if Pounds to Pocket had carried out proportionate checks, it would've seen how much Mr R was spending on gambling. And as a responsible lender, taking into account what the OFT said about consumer's needing to be able to repay their loans sustainably, I'm sure it wouldn't have thought the loans were affordable for Mr R. So this point doesn't change my conclusion.

It follows that I think Mr R has lost out because of what Pounds to Pocket did wrong.

what Pounds to Pocket should do to put things right

Pounds to Pocket should:

- refund all interest and charges for loans 2 - 9 (including any late fees and default interest).
- pay interest on this refund at 8% simple* per year from the dates of payment to the dates of settlement.
- remove any adverse information about these loans from Mr R's credit file.

*HM Revenue & Customs requires Pounds to Pocket to take off tax from this interest.

Pounds to Pocket must give Mr R a certificate showing how much tax it's taken off if he asks for one.

my final decision

For the reasons I've explained I uphold Mr R's complaint in part.

CashEuroNet UK LLC should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 31 July 2017.

Adam Golding
ombudsman