

## complaint

Mr G says Novaloans Ltd (trading as Cash4unow) irresponsibly lent to him.

## background

This complaint is about 4 instalment loans Cash4unow provided to Mr G between August 2017 and October 2018. Details of the 5 loans are as follows:

Loan	Date started	Date repaid	Instalments	Amount	Highest repayment
1	09/08/2017	27/11/2017	3	200	93.51
2	01/12/2017	27/03/2018	4	300	121.88
3	30/04/2018	06/08/2018	4	500	204.70
4	12/09/2018	08/10/2018	4	500	190.35
5	28/10/2018	12/11/2018	6	1000	333.32

Our adjudicator upheld Mr G's complaint in part and thought loans 2-5 shouldn't have been given. Cash4unow didn't agree. So the complaint was passed to me, an ombudsman, 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. We've set out our general approach to complaints about short-term lending - including all of the relevant rules, guidance and good industry practice - on our website.

Cash4unow needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr G could repay the loans in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Cash4unow should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a customer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

I think that it is important for me to start by saying that Cash4unow was required to establish whether Mr G could sustainably repay his loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the Consumer Credit Sourcebook ("CONC") defines sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr G's complaint.

I agree with the adjudicator that there was nothing to indicate Cash4unow needed to do more when it approved loan 1. This was the start of the lending relationship between the two parties. The repayments for the loan would have seemed affordable based on what Mr G had told Cash4unow. So I don't think at this stage, Cash4unow was wrong to give this first loan to Mr G.

However as our adjudicator explained, by the second loan it would have been clear that Mr G was showing signs that he was already struggling to repay his borrowing.

The first loan was to be repaid over 3 instalments. Mr G repaid the first instalment on time. But when Cash4unow tried to collect the second instalment on 27<sup>th</sup> September 2017, Mr G's card payment declined. Cash4unow then tried again to collect the payment a day later, but the card payment was declined again. So at this point Mr G was an instalment in arrears.

Mr G then contacted Cash4unow a week before the third instalment was due to be taken. Cash4unow recorded what he told them, in its final response letter. It says *"You informed us on 20.10.17 that you would be unable to make repayment as you had withdrawn funds to gamble and were behind with utility and other bills having repaid your rent."* The third instalment was also not paid on time. So at this point, Cash4unow would have been aware that Mr G had withdrawn funds to gamble, was struggling to repay his utility and other bills and was two instalments in arrears with his first loan.

Mr G then repaid the full amount outstanding for loan 1 on 27<sup>th</sup> November 2017, a month after he had agreed to do so. He then came back only 5 days after repaying the loan and asked for another that was for more than the first loan and was to be repaid over a longer term.

So when Mr G took out and repaid his first loan, he had already missed his repayment dates on two occasions, had taken an extra month to repay the loan and during this had informed Cash4unow that he was gambling whilst struggling to repay his bills. He then asked for a second loan only 5 days later for more, over a longer period.

When I consider all of these points together, it shows that there was a significant risk that Mr G would be unable to meet his repayments for loan 2 because he was showing clear signs

that he was struggling to repay in a sustainable way. So I think Cash4unow was wrong to approve loan 2 and all loans after this point.

It follows that I don't think Cash4unow should have given loans 2-5. So Cash4unow should now put things right.

**putting things right – what Cash4unow needs to do**

- refund all interest and charges Mr G paid on loans 2-5;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid to the date of settlement†;
- remove any negative information about loans 2-5 from Mr G's credit file

† HM Revenue & Customs requires Cash4unow to take off tax from this interest. Cash4unow must give Mr G a certificate showing how much tax it's taken off if he asks for one.

**my final decision**

For the reasons given above, I'm partially upholding Mr G's complaint. Novaloans Ltd (trading as Cash4unow) should pay Mr G compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 1 March 2020.

Mark Richardson  
**ombudsman**