

complaint

Mrs M says CashEuroNet UK LLC, trading as QuickQuid, (“QQ”), irresponsibly lent to her. The complaint was brought to this service on Mrs M’s behalf by a claims management company. But for ease, I shall refer below to all actions being taken by Mrs M.

background

This complaint is about two payday loans QQ provided to Mrs M between July and August 2011. The loans were repayable by two instalments. All of the loans have been repaid. A summary of Mrs M’s borrowing history is as follows:

Loan number	Date of loan	Repayment date	Loan amount	Highest monthly instalment amount
1.	2/7/11	25/8/11	£400	£480
2.	25/8/11	15/11/11	£400	£480

our adjudicator’s view

Mrs M’s complaint was assessed by one of our adjudicators. He didn’t think QQ had been wrong to give Loans 1 and 2 to Mrs M.

Mrs M disagreed and the complaint was given to me, an ombudsman, to assess.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mrs M and to QQ on 13 September 2011. I summarise my findings:

I’d noted that when QQ first lent to Mrs M the regulator was the Office of Fair Trading (OFT) and relevant guidance included its guidance on irresponsible lending.

QQ needed to take reasonable steps to ensure that it didn’t lend irresponsibly. In practice this meant that it should have carried out proportionate checks to make sure Mrs M 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 thought less thorough checks might be reasonable and proportionate.

But I’d said that certain factors might point to the fact that QQ should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors included:

- 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 had been given loans (reflecting the risk that repeated

refinancing might signal that the borrowing had become, or was becoming, unsustainable).

I said that there might even come a point where the lending history and pattern of lending itself clearly demonstrated that the lending was unsustainable.

I thought that it was important for me to say that QQ was required to establish whether Mrs M could sustainably repay her 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 didn't automatically follow this was the case. This was because the OFT guidance on irresponsible lending defined sustainable as being without undue difficulties and in particular the consumer 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 followed that a lender should have realised, or it ought fairly and reasonably to have realised, that a borrower wouldn't be able to make their repayments sustainably if they were unlikely to have been able to make their repayments without borrowing further.

I had carefully considered all of the arguments, evidence and information provided in this context and what this all meant for Mrs M's complaint.

QQ did a number of checks before it lent to Mrs M. It asked her for details of her income. Mrs M's declared income was £1,272. QQ checked Mrs M's employment and housing status. From the information QQ gathered, Mrs M was employed and was an owner occupier.

QQ had also checked Mrs M's credit file before agreeing to the loans. It hadn't provided us with any information about its credit checks. So I couldn't say there were entries on the report that should've concerned QQ.

Mrs M's first loan with QQ was for £400 with two monthly repayments of £80 and £480. The first repayment consisted of interest only on the amount borrowed and the final repayment consisted of the full amount borrowed and the interest for the last month.

Mrs M had declared a monthly income of £1,272. I'd thought Mrs M's final repayment on Loan 1 was a significant proportion of her income. So, I'd thought it might have been proportionate at this time for QQ to have gathered some further information from Mrs M about her expenditure and other short term lending. Had it done so, I said it was likely that QQ would've learnt that Mrs M had no outstanding other short term loans at that time. I had seen Mrs M's credit report and her bank statements for the month before Loan 1 and I couldn't see that she'd taken any other short term loans during that time. I could also see from Mrs M's bank statements that her partner's income was paid into her account. Although the regular expenditure shown on the statements was higher than Mrs M's income, the regular expenditure appeared to be well covered when her partner's income was taken into account and it was likely that Mrs M would have been left with sufficient disposable income to repay Loan 1. So, I couldn't say that if QQ had completed sufficient checks, it would have found that Mrs M couldn't afford to repay Loan 1 sustainably. So I didn't think QQ was wrong to give Loan 1 to Mrs M.

But I'd noted that Mrs M had difficulties repaying Loan 1. Her first repayment of £80 was paid a day late and she'd incurred a late fee. And whilst her second repayment was due on 22 August 2011, she'd repaid it late by three repayments over three days with the final repayment made on 25 August 2011. She'd incurred another late fee. As Mrs M had difficulties repaying the loan with late payments for both instalments and late payment fees charged, I'd thought QQ should have been concerned when she took out her next loan on the same day she'd repaid Loan 1 and again for the same amount.

Loan 2 was again repayable over two instalments with a highest instalment of £480. And I thought for the same reasons as set out above for Loan 1 that QQ should have put together a clearer picture of Mrs M's finances before agreeing to lend to her going forwards. And if QQ had carried out proportionate checks before Loan 2, it would have seen, as I had seen from Mrs M's bank statements, that Mrs M's partner's income had appeared to have substantially reduced and that most of Mrs M's income would have been spent on regular expenditure. She was borrowing short term loans from other lenders at the same time as Loan 2. I'd thought it would have been clear to QQ that Mrs M was facing significant problems managing her money and that Loan 2 wasn't likely to be repaid in a sustainable manner. So I didn't think that QQ should have lent Loan 2 to Mrs M.

Subject to any further representations by Mrs M or QQ my provisional decision was that I intended to uphold this complaint in part. I intended to order QQ to put things right as follows.

putting things right – what QQ needs to do

- refund all interest and charges Mrs M paid on Loan 2;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid to the date of settlement†; and
- remove any adverse entries about Loan 2 from Mrs M's credit file;

† HM Revenue & Customs requires QQ to take off tax from this interest. QQ must give Mrs M a certificate showing how much tax it's taken off if she asks for one.

QQ responded to say that although it believed its checks had been adequate, in an effort to amicably resolve the complaint it offered to refund the interest and charges Mrs M paid on Loan 2, pay 8% interest on the refunds and remove the adverse entries about the loan from Mrs M's credit file.

Mrs M said she would accept QQ's offer.

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.

As QQ's offer was in line with my provisional decision and both Mrs M and QQ have given me nothing further to consider, I see no reason to depart from the conclusions I reached in

my provisional decision. It follows that I uphold part of the complaint and require QQ to pay Mrs M some compensation as set out below.

my final decision

My decision is that I uphold this complaint in part. In full and final settlement of this complaint, I order CashEuroNet UK LLC, trading as QuickQuid, to:

1. Refund all interest and charges Mrs M paid on Loan 2;
2. Pay interest of 8% simple a year on any refunded interest and charges from the date they were paid to the date of settlement†; and
3. Remove any adverse entries about Loan 2 from Mrs M's credit file;

† HM Revenue & Customs requires QQ to take off tax from this interest. QQ must give Mrs M a certificate showing how much tax it's taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 26 October 2019.

Roslyn Rawson
ombudsman