

complaint

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

background

This complaint is about eight short term loans Cash4unow provided to Mr L between March 2016 and January 2018. Mr L's borrowing history is as follows:

loan number	start date	loan amount (£)	term	highest repayment (£)	end date
1	08/03/2016	300	3 months	144.55	04/04/2016
2	04/08/2016	300	3 months	149.72	31/10/2016
3	06/03/2017	250	3 months	122.63	31/03/2017
4	02/05/2017	600	3 months	307.26	07/07/2017
5	12/07/2017	800	4 months	312.45	29/09/2017
6	02/10/2017	500	4 months	206.74	31/10/2017
7	20/11/2017	800	6 months	218.15	30/11/2017
8	31/01/2018	300	4 months	123.42	outstanding

Our adjudicator thought that proportionate checks would've shown Cash4unow that Mr L couldn't afford to repay loan 2 and any subsequent loans. Cash4unow disagreed and the complaint was passed to me.

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 L 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 consumer'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.

Cash4unow was required to establish whether Mr L could sustainably repay his loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

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 relevant regulations define 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 L's complaint.

The adjudicator thought that Cash4unow did enough before lending loan 1, neither party has disagreed with this finding and so I've concluded that this loan is no longer in dispute. So I've focused my decision on loans 2 to 8.

After Mr L repaid loan 1, Cash4unow says Mr L applied for 27 other loans between April 2016 and July 2016. All 27 loans were declined before it approved Mr L's second loan in August 2016.

Before it lent to Mr L, Cash4unow says, it asked him about his income and living costs. Mr L declared his income as £1,800 and his living costs varied from £1,095 to £1,295 during the lending. Cash4unow also says it searched Mr L's credit file and there were no defaults or bankruptcies recorded on his file.

I'd expect a lender to take into account the relevant information about a customer it was aware of when deciding to lend. In this case, I think Cash4unow ought to have been aware from Mr L's 27 loan applications in four months that it was likely he may have had wider financial problems. And in the circumstances before lending loan 2 and any of the subsequent loans, it should have been looking to build a clear picture of Mr L's finances including verifying some of the information he provided.

I can see that Cash4unow makes the point that it carried out an extensive search of Mr L's credit file before lending to him and the information on the file didn't give it cause for concern. But I think in this particular circumstance, a reasonable lender would've wanted to know why Mr L was in such need of these types of loans and ought to have taken its checks further. So I don't think Cash4unow did enough before lending loans 2 to 8.

Had Cash4unow carried proportionate checks before lending loan 2 and the subsequent loans, it's likely to have found that Mr L's income was around £1,854 – similar to the amount he declared. And from the bank statements Mr L has provided to this service, I can see that he was gambling significant sums regularly. Around the time of loan 2, Mr L had spent over £1,200 on gambling alone. He was also regularly borrowing from other short term lenders. Mr L's bank statements show that he was borrowing from at least seven other short term lenders and had at least £850 outstanding when he was lent loan 2, this wasn't a sustainable position and Cash4unow shouldn't have been lending here.

I can see that Mr L's circumstances stayed very similar through the rest of the lending as he continued to gamble significantly and also borrow from other short term lenders.

I've also looked at the overall pattern of Cash4unow's lending history with Mr L, to see if there was a point at which Cash4unow should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so Cash4unow should have realised that it shouldn't have provided any further loans.

Given the particular circumstances of Mr L's case, I think that this point was reached by loan 3. I say this because:

- Mr L had been either repaying or taking out a new loan for around 12 months. So Cash4unow ought to have realised it was more likely than not Mr L was having to borrow further to cover the hole repaying his previous loan was leaving in his finances and that Mr L's indebtedness was increasing unsustainably.
- From loan 3 onwards Mr L was provided with a new loan shortly after of settling a previous one. I don't consider there were any breaks in the lender where Cash4unow could reasonably believe that Mr L's circumstances had improved. Particularly given the number of declined loan applications Mr L had with Cash4unow. Also the results of its credit search that showed he was using more credit and repaying significant sums to other lenders.
- Mr L wasn't making any real inroads to the amount he owed. Loan 8 was taken out around 22 months after Mr L's first. And it was for a similar amount. Mr L had paid large amounts of interest to, in effect, service a debt to Cash4unow over an extended period. These loans are not intended for extended use and Cash4unow ought to have been aware that Mr L was likely reliant on these loans as a long term financial solution.

I think that Mr L lost out because Cash4unow continued to provide borrowing from loan 3 onwards because:

- these loans had the effect of unfairly prolonging Mr L's indebtedness by allowing him to take expensive credit intended for short-term use over an extended period of time.
- the length of time over which Mr L borrowed was likely to have had negative implications on his ability to access mainstream credit and so kept him in the market for these high-cost loans.

So I'm upholding Mr L's complaint about loans 2 to 8 and Cash4unow should put things right.

putting things right – what Cash4unow needs to do

- refund all interest and charges Mr L paid on loans 2 to 7;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement†;
- remove any negative information about loan 2 from Mr L's credit file;
- the number of loans taken from loan 3 onwards means any information recorded about them is adverse. So all entries about loans 3 to 8 should be removed from Mr L's credit file.
- I note there's an outstanding balance on loan 8, Cash4unow should remove any interest and charges added, if Mr L has made any payments towards this loans, those payments should be treated as payments towards the principal. Cash4unow may choose to deduct the outstanding principal balance from the redress but it may only do this if it still owns the loan.

† HM Revenue & Customs requires Cash4unow to take off tax from this interest. Cash4unow must give Mr L 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 L's complaint. Novaloans Ltd should pay Mr L compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 25 November 2019.

Tola Oduola
ombudsman