

complaint

Mr H complains that CashEuroNet UK LLC, trading as QuickQuid ("QQ") and Pounds to Pocket ("P2P"), gave him loans that he couldn't afford to repay.

background

Mr H was given 6 loans and two top up loans by QQ between November 2010 and January 2012. These have all been repaid. And P2P gave him an instalment loan of £1,150 in February 2012. He was due to repay that loan by 12 monthly instalments of £181.54, but it remains unpaid with a balance of £997.29 outstanding. A summary of Mr H's borrowing from QQ and P2P is as follows:

Loan number	Date of loan	Repayment date	Loan amount plus interest to repay
1.	5/11/10	19/11/10	£156.25
2.	29/11/10	28/1/11	£187.50
3.	3/2/11	18/3/11	£187.50
4.	18/3/11	26/4/11	£437.50
5.	12/7/11	19/10/11	£562.50
6.	12/12/11	2/2/12	£250
6a (top up)	22/12/11	2/2/12	£625
6b (top up)	2/1/12	2/2/12	£250
7. (Instalment loan)	7/2/12	Unpaid	£1,150 plus interest

Mr H said that CashEuroNet had lent irresponsibly. He was caught in a payday loan spiral and found himself borrowing each month to pay the interest for the previous month. He was also borrowing from a number of lenders at the same time.

With regard to Loans 1 to 4, CashEuroNet said that complaints couldn't be made where they concerned an event that occurred more than six years previously, and it didn't consent to Loans 1 to 4 being considered. But it would investigate the loans it had made within the last six years. It said that it had conducted its standard credit assessment for these loans, which included pulling Mr H's credit report. As part of its assessment, it analysed Mr H's current financial commitments, insolvency records, delinquency records, county court judgements, credit enquiries and other credit accounts currently open. It also looked at the information Mr H provided in his application, as well as his loan history. It used this information to obtain a credit model score, and it said Mr H's credit model score was never under the minimum approval thresholds for any of the loans for which he was approved. But it noted that the repayment amount on Loan 6 (including top ups) was more than 80% of Mr H's income, so it offered to refund the interest charged on that loan of £298.87 and deduct it from the balance outstanding of Loan 7. It also said it would work with Mr H to determine a feasible repayment plan.

The adjudicator said that he wouldn't be assessing the first four loans as they had been made more than six years previously. He also noted that CashEuroNet had offered to refund £298.87 which would reduce Mr H's outstanding loan balance. He didn't think that QQ and P2P had made sufficient checks on Loans 5 onwards. And he didn't think that QQ and P2P should have lent Loans 5 onwards to Mr H. He said that Mr H didn't have sufficient disposable income to repay Loans 5, 6, 6a and 6b. And that Mr H would only have been left

with £55 to cover any other expenses after paying the Loan 7 monthly repayment. So he recommended that CashEuroNet should:

- Refund all interest and charges that Mr H paid on Loans 5 onwards;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
- Remove any negative information about these loans from Mr H's credit file.

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

CashEuroNet disagreed and referred to the Financial Conduct Authority's ("FCA") consumer credit sourcebook ("CONC") requirements. It said that CONC doesn't say what criteria should be taken into account when assessing affordability and it doesn't set out minimum levels of disposable income. It also said that the adjudicator hadn't explained what emergency expenses Mr H might have to meet and had provided no justifiable reason why the remaining disposable income was insufficient.

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 note that Mr H has withdrawn his complaint about Loans 1 to 4. So, I shall only consider Loans 5 onwards below.

I also note that CashEuroNet has referred to the FCA's requirements. But these aren't applicable to the loans I'm considering. The applicable requirements are those of the Office of Fair Trading ("OFT").

CashEuroNet was required to lend responsibly. It needed to make checks to make sure Mr H could afford to repay each of the loans before it lent to him. Those checks needed to be proportionate to things such as the amount Mr H was borrowing, the length of the agreements and his lending history. But there was no set list of checks CashEuroNet had to do.

The guidance in place at the time of Mr H's loans was clear about the responsibility of the lender to take reasonable steps to ensure that a borrower can *sustainably* repay their loans. The OFT's Irresponsible Lending Guidance said that assessing affordability is a borrower-focussed test which involves a creditor assessing a borrower's ability to undertake a specific credit commitment, or specific additional credit commitment, in a sustainable manner, without the borrower incurring (further) financial difficulties. The guidance also said that repaying credit in a sustainable manner meant being able to repay credit "*out of income and/or available savings*" and without "*undue difficulty*." And it defined "*undue difficulty*" as being able to repay credit "*while also meeting other debt repayments and normal/reasonable outgoings*" and "*without having to borrow further to meet these repayments*".

So, the fact that the amounts borrowed and the interest paid might have been low when compared to Mr H's income, or that he was able to repay most of the loans in full, doesn't necessarily mean the loans were affordable and that he was able to repay them in a *sustainable manner*. So, I can't assume that because Mr H was able to repay most of his

loans in full that he was able to do so out of his normal income without having to borrow further.

QQ told us that before lending Loans 5 and 6 to Mr H, it had asked him about his income, and made credit checks. Mr H had declared a monthly income of £1,358 before Loan 5 and £1,550 before Loan 6. I've thought about whether QQ's checks were proportionate for these loans.

Loan 5 was Mr H's fifth loan in just over eight months and the loan repayment amount had increased to £562.50. I think QQ should have been concerned by this time that Mr H's loans were being taken sufficiently regularly to show that Mr H was reliant on them. In addition, as Mr H also needed to repay QQ a significant proportion of his income, I think there was an onus on QQ to look in much more depth at Mr H's true financial situation here to assess the affordability of its lending. It could've done this in a number of ways. It could've asked for evidence of Mr H's income and expenditure such as payslips and bills, or it could've looked at things like his bank statements.

Loan 5 was rolled over three times and wasn't repaid until October 2011. So, by the time of Loan 6, I think QQ might have been concerned about Mr H's repayment history and the frequency of Mr H's requests. I think the pattern of Mr H's borrowing and his repayment history on Loan 5 might have suggested that his finances were under pressure. So, I think QQ should have again been looking to independently verify Mr H's income and expenditure so it could fairly assess the affordability of Loan 6.

And for the same reasons, I think similar checks should have been made before the two top ups to Loan 6 taken 11 days and 16 days respectively after Loan 6, and before Loan 7 which was taken just five days after Loan 6 was repaid. I'm also aware that QQ and P2P shared information about their customers. So I think it would be reasonable to conclude that P2P knew about Mr H's repayment history with QQ.

But although I don't think the checks QQ and P2P did on Loans 5 onwards were sufficient, that in itself doesn't mean that Mr H's complaint should succeed. I'd also need to be persuaded that what I consider to be proportionate checks would have shown the lenders that Mr H couldn't sustainably afford the loans. So I've looked at Mr H's bank statements, and what he's told us about his financial situation, to see what better checks would have shown QQ and P2P.

With regard to Loans 5 onwards, as I've said above, I think QQ and P2P should have been independently checking what Mr H was earning and spending each month. So I've tried to do this by looking at Mr H's bank statements at the time of these loans, and what he's told us about his financial situation, to see what better checks would have shown the lenders. The bank statements may not have shown them everything they would've seen by carrying out proportionate checks. But the bank statements are the best indication of Mr H's ability to

afford the loans at the time they were approved. So I don't think it's unreasonable to rely on these.

I've checked Mr H's bank statements for the month before Loan 5. I can see that Mr H's income was around £1,772. The bank statements don't specifically refer to most of the normal expenditure that I'd expect to see such as rent or mortgage payments, council tax, water and utility bills. Mr H explained that he lived with family and paid rent to them in cash. There are some phone bills, credit card repayments and payments for food and bank

charges which total around £440. But, I can also see on the statements that Mr H was gambling heavily with expenditure of around £760. And to support this gambling expenditure he was also borrowing from a number of other short term lenders. In the month before Loan 5, his short term lending, which would have been repayable around the same time as QQ's loan repayment, was around £520. So if QQ had done what I consider to be proportionate checks, I think that it would have seen that the repayment for Loan 5 wasn't sustainable as Mr H had insufficient disposable income to repay it.

I've also checked Mr H's bank statements for the months before Loan 6 and the two top ups. In the month before Loan 6, I can see that Mr H's income was around £1,620. But his short term lending had increased to around £1,135, and his gambling totalled around £550. So, even without considering Mr H's regular expenditure, I think if QQ had done what I consider to be proportionate checks, that it would have seen that Loan 6 wasn't sustainable as Mr H had no disposable income to repay his loan. And the situation was similar for the two top up loans taken within three weeks of Loan 6.

I've also checked Mr H's bank statements for the month before Loan 7. In the month before Loan 7, I can see that Mr H's income was around £1,580, and the short term borrowing and heavy gambling pattern continued. So if CashEuroNet had done what I consider to be proportionate checks, I don't think it would have thought the loan repayments for Loan 7 were sustainable for Mr H as he had no disposable income and so it wouldn't have given him this loan.

In summary, I don't think CashEuroNet did enough checks for Loans 5 onwards. I think proportionate checks would have shown it the state of Mr H's finances and that Mr H couldn't afford to sustainably repay these loans. So I don't think CashEuroNet should have given Mr H these loans, and I think it needs to pay Mr H some compensation relating to these loans. To settle Mr H's complaint, I think CashEuroNet should:

1. Refund all interest and charges that Mr H paid on Loans 5, 6, 6a and 6b;
2. Pay interest of 8% simple* a year on all refunds from the date of payment to the date of settlement;
3. With regard to Loan 7, refund all the interest and charges that Mr H has paid on it, and pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;
4. Write off any unpaid interest and charges from Loan 7;
5. Apply the refunds referred to above to reduce any capital outstanding on Loan 7 and pay any balance to Mr H; and
6. Remove any adverse information about Loans 5, 6, 6a, 6b and 7 from Mr H's credit file.

*HM Revenue & Customs requires CashEuroNet to take off tax from this interest. CashEuroNet must give Mr H a certificate showing how much tax it has taken off if he asks for one. If CashEuroNet intends to apply the refund to reduce any outstanding capital balance, it must do so after deducting the tax.

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 and Pounds to Pocket, to:

1. Refund all interest and charges that Mr H paid on Loans 5, 6, 6a and 6b;

2. Pay interest of 8% simple* a year on all refunds from the date of payment to the date of settlement;
3. With regard to Loan 7, refund all the interest and charges that Mr H has paid on Loan 7, and pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;
4. Write off any unpaid interest and charges from Loan 7;
5. Apply the refunds referred to above to reduce any capital outstanding on Loan 7 and pay any balance to Mr H; and
6. Remove any adverse information about Loans 5, 6, 6a, 6b and 7 from Mr H's credit file.

*HM Revenue & Customs requires CashEuroNet to take off tax from this interest. CashEuroNet must give Mr H a certificate showing how much tax it has taken off if he asks for one. If CashEuroNet intends to apply the refund to reduce any outstanding capital balance, it must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 7 July 2018.

Roslyn Rawson
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