complaint

Mr W says CashEuroNet UK LLC, trading as Quick Quid, lent to him irresponsibly.

background

I issued my provisional decision on this case on 13 June 2018 – a copy of it is attached and it forms part of this final decision. The full background to this complaint is set out in the provisional decision and as such I won't reiterate it here.

I explained why I thought the complaint should be upheld in part and I asked Quick Quid and Mr W to let me know if there was anything else they wanted to add. Both parties responded with additional points for me to consider. I've read their responses in full and have summarised them below.

Mr W said:

- He had nothing to add about the loans I proposed to uphold.
- I'd included child tax credit payments as part of his income. As this was paid to his wife, not him, I should also take into account her expenditure. This included cash withdrawals to repay loans to family.
- He was borrowing from Quick Quid to pay off other short-term loans, so none of the loans were granted responsibly.

Quick Quid said:

- I'd suggested it wasn't reasonable to expect Mr W to 'save' from his disposable income for multi-period loans in order to pay the final large repayment. But the information Quick Quid provided to Mr W about the cost of the loan was clear and he would've understood what he needed to do. Mr W repaid one of these loans (loan 8) early.
- Quick Quid completed changes to its affordability assessment by February 2015 and its assessments were in line with the regulator's guidelines. It validates expenditure and income against credit reports and asks for bank statements where there are discrepancies. Its checks went far enough.

Quick Quid also provided some information about the total cost of two of the loans (*i.e.* the interest payable) against its calculation of Mr W's estimated disposable income (EDI).

my findings

I've again considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've taken into account the law, good industry practice and any relevant regulations at the time.

I've thought carefully about everything Mr W and Quick Quid said in response to my provisional decision. Having done so, I've not been persuaded to change my provisional findings. I'd like to explain why.

I do understand the point Mr W has raised about child tax credit. As loans 5 and 6 are the loans I'm not upholding, I'll explain why I think it's reasonable to take the child tax credit into account as if it were his income in the context of these loans.

Loan 5 was taken out on 30 November 2013 and loan 6 on 28 November 2014. Quick Quid has recorded that Mr W said his income was £1,377 until the start of loan 6, when it changed to £2,850. Mr W's reported income didn't change again until December 2016.

Taking November 2014 as an example, Mr W's bank statements show he was paid £2,325 – about £525 less than he told Quick Quid. During November around £103 a week in tax credits was paid into Mr W's joint account – so about £412 for that month. So it looks to me like Mr W may have taken other sources of income into account when making his application. Even if he didn't, I think it would be quite reasonable for Quick Quid to accept the £2,850
Mr W provided, based on the evidence I've seen. As I think Quick Quid could reasonably have accepted this figure as Mr W's income, I don't think it's necessary to consider his wife's outgoings.

Mr W also mentioned payments to a credit card at the time of loan 5 which were in excess of what I'd mentioned in my provisional decision. I can see from his bank statements that there were large direct debits to a credit card in November and December 2013. In my provisional decision I thought Quick Quid could reasonably have thought Mr W's disposable income was around £1,150 when he applied for loan 5. The payments to the credit card he mentions were around £340 in December 2013 and £1,053 in November. On both figures loan 5 appears to be just about affordable – and there are a lot of different ways Quick Quid could've taken a payment towards a credit card into account. It could, for example, have taken into account a minimum or an average payment. So on balance I still don't think I can reasonably say proportionate checks would've indicated loan 5 was unaffordable.

Turning to what Quick Quid has said, I understand it continues to believe it was reasonable for Mr W to 'save' from his disposable income each month so he could make the large balloon payment at the end of the multi-period loans 7 and 8. It says it was clear from the credit agreements that he would have to do this.

Quick Quid hasn't provided a copy of the credit agreements, so I don't know if the document is as clear as it says. But providing clear information isn't the only duty of a responsible lender. Quick Quid was also required to carry out proportionate checks to ensure, as best it could, the loan was affordable. And the loan didn't just have to be affordable – but also sustainable.

I said in my provisional decision:

"At the time Mr W took out these loans, he'd been borrowing from Quick Quid for almost four years, demonstrating clear problems with repaying some of the preceding loans, such as incurring late fees and extending loans many months beyond their original terms. I don't think it was reasonable for Quick Quid to conclude that Mr W was likely to save up disposable income each month to put towards his repayments."

I continue to think it was unreasonable for Quick Quid to assume Mr W would repay the loan sustainably by saving up each month, particularly given its experience of Mr W as a customer who often made late repayments and extended loans.

I also continue to think if the loan was only affordable by Mr W effectively making monthly instalments, Quick Quid ought to have structured the loan in this way, so that the agreement ensured the payments were sustainable. I make it clear I do not think the repayments under the agreement that was *actually* put in place were sustainable.

I appreciate that loan 8 was repaid "early" – in fact it was repaid after just a day. Given that this was a three month loan, repayment after a day is in my view akin to cancellation, rather than early repayment (Mr W paid just £11.20 in interest). This doesn't mean the largest instalment of £1773.10, agreed when the loan was granted, was sustainably affordable.

So what Quick Quid has said about the multi-period loans hasn't changed my mind.

I've also thought about what Quick Quid has said about changes to its affordability assessments.

Unfortunately, while Quick Quid has described some of its processes, it hasn't provided much information about what its checks revealed about Mr W specifically.

Indeed Quick Quid appears to be saying that it carried out the same checks and applied broadly the same criteria, irrespective of the circumstances of the individual application. And it appears to be arguing that its checks will always be proportionate irrespective of the circumstances and considerations of the individual loan application.

It has told me, for example, that it checked what Mr W reported about his credit commitments against credit reference agency (CRA) data. But it hasn't shown me what it information it asked the CRA to provide, or what it saw and how this compared to what Mr W told it in any real detail. Without this information, I can't really comment on whether Quick Quid was acting reasonably when it relied on Mr W's self-declared income and expenditure.

Quick Quid has provided some limited information about what its checks revealed for loans 8 and 9. Taking loan 8 as an example, Quick Quid says it validated Mr W's income as £2,850. It also says it validated his expenses against statistical and CRA data, giving an estimated disposable income of £993 a month. I assume therefore that Quick Quid validated Mr W's estimated expenses as £1,857 (£2,850 less £993). I haven't seen a breakdown of these figures from Quick Quid.

At this time, Mr W's declared his expenditure as £1,175. So there's a potential discrepancy of almost £700. In its response to my provisional decision Quick Quid said, *"Where material discrepancies are found, we request the customer's bank statement to further evaluate their incomings and outgoings."*

I'm not sure what Quick Quid considers a "material discrepancy" to be. But I think that a £700 difference between its estimate of Mr W's outgoings and Mr W's own submissions ought reasonably to have qualified. And yet Quick Quid didn't ask Mr W for bank statements despite an apparent discrepancy here and it saying that it would do so where such a discrepancy was apparent.

I suggested in my provisional decision that Quick Quid ought to have done more to check if the loans were affordable, such as asking Mr W for evidence of income and outgoings. If anything, Quick Quid's submissions have only reinforced my view on this – and it hasn't changed my mind that its affordability checks were not proportionate.

my final decision

For the reasons given above and in my provisional decision, I uphold this complaint in part. CashEuroNet UK LLC must put things right by taking the steps I set out in my provisional decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 29 July 2018.

Matthew Bradford
ombudsman

COPY OF PROVISIONAL DECISION

complaint

Mr W says CashEuroNet UK LLC, trading as Quick Quid, lent to him irresponsibly.

background

Mr W had 12 loans with Quick Quid. I've set out some of the details the business has provided about these loans in the table below. Mr W isn't complaining about loans 1 and 2, but I've included them in the table for context. Quick Quid has also already made a fair offer in relation to loans 3, 4, 11 and 12. So my decision is only concerned with loans 5-10.

Loan no.	Date Started	Original End Date	Actual End Date	Amount	Largest payment
1	10/02/2011	25/03/2011	18/07/2011	£350	£415.62
2	18/07/2011	16/09/2011	18/01/2012	£400	£490
3	18/01/2012	16/03/2012	18/07/2012	£900	£1,125
4	22/01/2013	18/04/2013	18/06/2013	£900	£1,125
5	30/11/2013	n/a	18/08/2014	£900 (limit)	£288.90 (variable)
6	28/11/2014	18/02/2015	10/12/2014	£750	£985.57
7	10/12/2014	18/03/2015	13/02/2015	£1,400	£1773.10
8	24/03/2015	18/06/2015	25/03/2015	£1,400	£1747.20
9 9a	29/07/2015 04/08/2015	16/10/2015	10/09/2015	£650 £400	£781.04 £1261.68
10	13/09/2015	18/12/2015	18/12/2015	£100	£176.80
11 11a 11b 11c	29/05/2017 08/06/2017 12/06/2017 20/06/2017	15/07/2017	18/08/2017	£300 £525 £575 £1,113	£372 (before top up – not all info is available)
12 12a	17/07/2017 23/07/2017	18/08/2017	n/a	£350 £1,150	£412.72 £1829

One of our adjudicators investigated the complaint and thought it should be upheld. He thought Quick Quid hadn't carried out proportionate affordability checks and if it had, it would've found out loans 5-10 were not affordable to Mr W.

my provisional 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 taken into account the law, good industry practice and any relevant regulations at the time.

When Mr W first borrowed from Quick Quid, the regulator was the Office of Fair Trading (OFT). The OFT had published guidance on irresponsible lending (ILG), including an updated version in February 2011. On 1 April 2014 the Financial Conduct Authority (FCA) became the regulator and relevant regulations included its Consumer Credit sourcebook (CONC).

The ILG and CONC both make it clear lenders have a duty to lend responsibly – this includes undertaking proportionate affordability checks to try and ensure customers can repay loans sustainably. The definition of a sustainable repayment includes that payments should be made from income and/or savings, without undue difficulty and while meeting other reasonable commitments. There's no prescriptive list of the sort of checks a lender should carry out, but the regulations say lenders may wish to take into account factors such as the type of credit, a customer's credit history and their existing financial commitments.

With this in mind, I've considered whether Quick Quid carried out proportionate checks for each loan and, if it didn't, what I think such checks are likely to have shown.

did Quick Quid carry out proportionate checks?

By the time Mr W had applied for loan five, he'd been borrowing from Quick Quid for well over two years. There was a six month gap between loans 3 and 4 and then a five month gap between loans 4 and 5. Whilst a large gap in borrowing might sometimes be a factor indicating a consumer isn't in financial difficulty, I think the problems Mr W appears to have had repaying most of his loans reduces the significance of the gaps. There were significant extensions to all of Mr W's first four loans, which I think indicates Mr W wasn't in a strong financial position.

So by the time Mr W applied for loan 5, I think Quick Quid ought to have been doing more to assess Mr W financial position – including asking him for information to substantiate his income and outgoings. Quick Quid didn't do this, so I don't think its checks were proportionate.

what would proportionate checks have shown?

loan 5

This was a flexible credit facility which allowed Mr W to make drawdowns up to a credit limit and then repay those drawdowns in a period of up to ten months. If Mr W drew down the maximum £900 in one go and repaid it in ten instalments, the largest instalment would be around £289.

When Mr W applied for loan five, he told Quick Quid his monthly income was £2,850. Having looked at his bank statements for November 2013, this seems accurate when taking his salary and child tax credit into account.

I think if Quick Quid had asked Mr W for more evidence about his outgoings, it would've likely seen his outgoings included secured loans of around £263, £500 towards food, £115 in council tax, £130 for utilities, £160 for TV and telecoms, £446 for an unsecured loan and £100 towards credit cards – a total of around £1,700. Whilst this might not be a comprehensive breakdown of Mr W's expenditure, Quick Quid could reasonably have assumed Mr W had around £1,150 left over after fixed and regular expenses. Bearing in mind the highest repayment assumed at the outset was £289, I think a Quick Quid could reasonably have concluded that this loan was affordable.

As this was potentially a longer-term agreement, Quick Quid should have also monitored how Mr W used the account, to ensure repayments were made within a reasonable period. I've looked at the way Mr W used his flexcredit account. Although I can see that Quick Quid charged Mr W two late fees, I don't think the way the account was operated overall should've caused Quick Quid too much concern. The account was closed within eight months – within the ten months referred to in the credit agreement.

I'm not therefore planning on upholding the complaint about loan 5.

loan 6

The largest instalment for this loan was almost £1,000. Mr W's declared income was still around £2,850 – and I again think this seems reasonably accurate, taking into account Mr W's salary and child tax credits.

At this point Quick Quid also asked Mr W about some of his monthly living expenses. He told Quick Quid these totalled £1,175; this included £250 towards housing, £200 towards utilities and £250 towards other monthly credit commitments.

I think if Quick Quid had asked Mr W for some proof of his outgoings, it would've seen his regular credit repayments were higher than £250 – but I don't think it's likely it would've thought Mr W's overall regular outgoings were higher than for loan 5. So again, I think Quick Quid could reasonably have assumed Mr W had around £1,150 left over after fixed expenses. Against this, I think the largest payment for this loan would have looked affordable to Quick Quid.

So I don't intend to uphold the complaint about loan 6.

loans 7 and 8

Mr W took out these loans between November 2014 and August 2015. During this time Mr W declared a net monthly income of £2,850, with total monthly living expenses of £1,175. So based on the figures Quick Quid actually had, Mr W's apparent disposable monthly income was £1,675.

The largest repayments for loans 7 and 8 were in excess of this. I appreciate that these loans were repayable in more than one month, so Quick Quid thinks Mr W could have saved each month to make the final, largest repayment. But I think this is unrealistic. At the time Mr W took out these loans, he'd been borrowing from Quick Quid for almost four years, demonstrating clear problems with repaying some of the preceding loans, such as incurring late fees and extending loans many months beyond their original terms. I don't think it was reasonable for Quick Quid to conclude that Mr W was likely to save up disposable income each month to put towards his repayments. And if the loan was only affordable based on Mr W putting money towards it each month, I think Quick Quid should have structured the loan in this way – to do otherwise would in my view risk adversely impacting Mr W's financial situation, contrary to CONC 5.2.1R.

I'm therefore planning to uphold the complaint about loans 7 and 8.

loans 9 and 10

When he applied for loan 9, Mr W's declared income was again £2,850 – I think Quick Quid could reasonably have accepted this if Mr W had been asked to provide proof of income.

But there was a change in Mr W's circumstances by the time of loan 9. His outgoings had increased. Notably, his regular financial commitments now included three unsecured loans, with repayments totalling around £870 a month. Taken together with his regular living costs of approximately £1,100, Mr W's monthly outgoings were a little under £2,000 – leaving him with around £850. So I don't think loan 9, or the top up, would have looked affordable if Quick Quid had carried out proportionate affordability checks.

I think by the time Mr W applied for loan 10, Quick Quid ought to have considered if it was appropriate to continue lending to him, regardless of whether this individual loan was affordable. CONC 6.7.22, which refers back to paragraph 6.25 of the ILG, says that creditors shouldn't continue to allow a borrower to enter into consecutive agreements where to do so would increase the borrower's indebtedness in an unsustainable manner. The same guidance says, *"The purpose of payday loans is to act as a short-term solution to temporary cash flow problems experienced by consumers. They are not appropriate for supporting sustained borrowing over longer periods…"*

Mr W had been borrowing from Quick Quid for over four and a half years by the time he applied for loan 10. Whilst there were some gaps in the loans, the overall impression I have is that Mr W was routinely relying on short-term finance in a way which was arguably inappropriate. On top of this, loans 8 and 9 had repayments which were very large relative to Mr W's income and which in my view were not affordable. So I think Quick Quid ought to have realised it wasn't right to keep allowing Mr W to enter into consecutive agreements, as the lending had already reached the stage where it was no longer sustainable.

For these reasons, I plan to uphold the complaint about loans 9 and 10.

what the business needs to do to put things right

I plan to say Quick Quid should:

- refund the interest and charges Mr W paid on loans 3, 4, 11 and 12 – as it has already offered to do
- refund the interest and charges Mr W paid on loans 7, 8, 9 and 10
- add to the above interest at 8% simple per year, from when Mr W paid them until he gets the refund†
- remove any adverse information about these loans from Mr W's credit history

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

If Mr W still owes Quick Quid any of the principal balance he borrowed on any of his loans, Quick Quid may deduct this from the compensation that is due to him. To be clear, that outstanding balance should be recalculated to remove any interest and charges, but taking account of any repayments Mr W has made on those loans as though they were applied against the principal sum borrowed. And if Quick Quid no longer owns this debt, it needs to buy it back. If it doesn't then it isn't entitled to make any deductions for it from the amount it needs to pay Mr W.

my provisional decision

I plan to uphold the complaint in part and to tell CashEuroNet UK LLC to put things right by doing what I've set out above.

Matthew Bradford
ombudsman