

The complaint

Mr J complains, through a representative, that Stagemount Limited trading as Quidmarket ("Quidmarket") failed to carry out proportionate affordability checks before it granted the loans.

What happened

Mr J was granted seven loans and I've outlined a summary of his borrowing below.

loan number	loan amount	agreement date	repayment date	repayment period (months)	highest repayment per loan
1	£500.00	06/11/2017	26/01/2018	3	£236.40
2	£600.00	26/01/2018	25/05/2018	4	£249.70
3	£500.00	01/06/2018	28/09/2018	4	£205.59
4	£450.00	07/11/2018	29/03/2019	5	£154.17
Break in lending					
5	£500.00	20/01/2020	27/03/2020	3	£218.95
6	£400.00	08/05/2020	28/08/2020	4	£156.94
7	£1,000.00	01/12/2020	outstanding	6	£329.06

Following Mr J's representatives' complaint, Quidmarket issued its final response letter (FRL), and it partly upheld the complaint. For loans 1 – 3 and loans 5 and 6 Quidmarket considered it had carried out proportionate creditworthiness checks and so didn't uphold these loans.

However, it did say for loans 4 and 7 that further checks ought to have been carried out and so Quidmarket upheld the complaint about those loans. Quidmarket outlined its calculations and said that Mr J would still have an outstanding balance to pay of £575.52.

Mr J didn't accept the offer and instead referred the complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator who, in his latest assessment, said Quidmarket shouldn't have granted loans 1 – 3. He said that a County Court Judgement (CCJ) had been applied to Mr J's credit file shortly before loan 1 and despite this relating to a historic default he thought that Quidmarket ought to have carried out more in-depth checks before granting these loans.

Mr J had provided his bank statements which showed he was having problems managing his money because he had at least four outstanding payday loans, so he thought that had further checks been carried out Quidmarket should not have granted these loans. Finally, he also thought Quidmarket's offer for loans 4 and 7 was fair and reasonable.

Quidmarket acknowledged the latest assessment, and it didn't provide any further comments as to whether it agreed with it (or not). Therefore, in order to resolve the complaint, it was passed to me for a decision.

I issued my provisional decision explaining the reasons why I was intending to uphold Mr J's complaint in part. Both parties were given the opportunity to provide any further comments or submissions as soon as possible, but in any event, no later than 24 November 2023.

Mr J's representative acknowledged receipt of the provisional decision and said that it would forward any further points onto us for further consideration. No further submissions were made and so I think it's reasonable to conclude that neither Mr J nor his representative has anything further to add.

Quidmarket queried the assessments it had received from the adjudicator in relation to what loans were being upheld. It also said;

"There was not a requirement in March 2018 to check the level of income stated by the customer (That was instigated by the FCA in Nov 2018), and the level of checks stated was not proportional that early in the lending chain."

A copy the provisional findings follows this in smaller font and forms part of this final decision.

What I said in my provisional decision:

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 the relevant rules, guidance and good industry practice - on our website.

Quidmarket had to assess the lending to check if Mr J could afford to pay back the amounts he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Quidmarket's checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr J's income and expenditure.

With this in mind, I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Quidmarket should have done more to establish that any lending was sustainable for Mr J. These factors include:

- Mr J having a low 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 amounts to be repaid being especially high (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);*
- Mr J having a large number of loans and/or having these loans over a long period of time (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);*
- Mr J coming back for loans shortly after previous borrowing had been repaid (also suggestive of the borrowing becoming unsustainable).*

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable for Mr J. The adjudicator didn't think this point was reached in Mr J's complaint and I agree, taking account the number of loan chains and the length of them.

Quidmarket was required to establish whether Mr J could sustainably repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr J was able to repay his loan sustainably. But it doesn't automatically follow that this is the case.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mr J's complaint.

Neither Quidmarket nor Mr J (or his representative) seem to have disagreed with the adjudicator's decision to not uphold loans 5 or 6. Neither does there appear to be any dispute that loans 4 and 7 ought to not have been granted, after all Quidmarket has already made an offer on these loans and for completeness, I've included these loans in the redress at the end of this decision.

It therefore seems these loans are no longer in dispute and so I shall say no more about them. Instead, this decision will focus on whether Quidmarket did all it ought to have done before advancing loans 1, 2 and 3.

Loan 1

For this loan Quidmarket asked Mr J about his income and expenditure details and Mr J declared an income of £2,500 per month. Quidmarket has said that the income was electronically verified but it hasn't provided a copy of the results it received.

He also declared outgoings of £1,250 across several categories such as rent, food, credit commitments and utilities – which potentially left Mr J £1,250 per month in disposable income to afford the repayment of £236.40. However, Quidmarket made an adjustment to Mr J's monthly outgoings – it increased his monthly outgoings to £1,875. But even with the smaller disposable income figure the loan still looked affordable.

A credit search was also carried out and Quidmarket has provided a copy of the results that it received from the credit reference agency. So, I've looked at these to see if there was anything contained within it that ought to have either led Quidmarket to have conducted further checks and / or declined the application for the loan.

The results showed that Mr J had 12 active accounts when this loan was approved, he had opened five accounts within the previous six months. It knew Mr J owed other creditors just over £5,000. So superficially, there wasn't anything that demonstrated Mr J was reliant on this sort of borrowing.

But it did know that Mr J had recently had a CCJ recorded against him in September 2017. And this is what the adjudicator said ought to have been sufficient to prompt Quidmarket to carry out further checks. Whereas, Quidmarket said, this CCJ related to a historic default so was not relevant.

I've thought carefully about this, and having reviewed the credit file in its entirety, I don't think the CCJ would've prompted further checks. I say this because it is clear, from the results that the CCJ is connected with a default recorded on the credit file in 2013 for a telecommunication account. And so, while the CCJ did show that Mr J couldn't repay the balance when asked by the courts (in full) it wasn't connected to a recent default and so I don't think, the recent CCJ should've prompted further checks when consider what else Quidmarket was aware of.

There hadn't been any recent adverse payment information recorded on his credit file, he was within his limits on his mail order accounts and while Quidmarket did know of one other outstanding payday loan that isn't going to be sufficient for me to say further checks needed to have been carried out especially because it had been opened in May 2017. Overall, Quidmarket knew that Mr M's monthly credit commitments likely came to around £500 per month. This likely explains why Quidmarket adjusted Mr J's declared income figures for this loan.

Overall, in my view, the checks were proportionate and showed Mr J could potentially afford the repayments he was committed to making. I'm therefore intending to not uphold Mr J's complaint about this loan.

Loans 2 and 3

Loan 2 was advanced on the same day that loan 1 was repaid, and it was for a larger sum to be repaid over a longer term. While loan 3 was taken six days after loan 2 was repaid and was for the same capital value as loan 1. I've kept this in mind when thinking about these two loans.

Quidmarket carried out the same sort of checks for these two loans as it had done for loan 1. For loan 2, Mr J declared an income of £2,200 per month and he declared outgoings across the same categories as I previously mentioned of £1,450. As before, Quidmarket made adjustments to his outgoings after carrying out a credit search and it therefore believed Mr J's monthly outgoings were more likely to be £1,703 each month.

For loan 3, Mr J declared monthly income of £3,000 and outgoings of £1,500. Quidmarket made adjustments and so for its affordability assessment, it used monthly outgoings of £1,930. But even with this larger monthly outgoing used by Quidmarket for loans 2 and 3 these loans still appeared affordable.

Quidmarket also carried out a credit search before each loan was approved, and it has provided the results that it received.

For loan 2, it knew Mr J's total outstanding debt had doubled compared to the results it was provided with for loan 1. This time, his debts were over £10,200, his outstanding credit accounts had increased to 18 and Mr J was still demonstrating a need for regular further credit. I say this because Quidmarket was told that in the last six months, he had opened seven accounts. One of those accounts being loan 1.

But still, Quidmarket was now being provided with information that demonstrated Mr J's total outstanding debt was larger, he had more active accounts than when the relationship started and key, in my view is that Mr J was still demonstrating an ongoing need for funds and credit.

It knew that Mr J had four telecommunication accounts costing £125 per month. It knew of two "Finance House loans" which were likely to be either instalment loans or long-term high cost credit loans. These were costing Mr J £276 per month. There were also six Hire Purchase agreements – all of which appear to be items purchased from a retailer rather than say for a purchase of a car. The cost per month for these loans came to £290.

Finally, with there were two mail order accounts, one that had been recently opened in October 2017 which had a balance of £144 against a credit limit of £200. The final mail order account was actually over the credit limit, Mr J owed £1,507 against a credit limit of £1,500. Although, for this mail order account no adverse payment information had been reported, the fact that Mr J was over his credit limit does indicate that he was at least, at the point the information was reported to the credit reference agencies, having problems managing his existing credit commitments.

Taking account of the lending history and the information contained within the credit report I have concluded, like the adjudicator, that Quidmarket ought to have been sufficiently concerned that it should've carried out further checks before loans 2 and 3 were granted, which ought to have included obtaining a full understanding of Mr J's financial position.

Quidmarket could've gone about gathering this further information a number of ways, it could've asked for evidence of his income such as through a wage slip and in terms of Mr J's outgoings it could've asked for copies of the bills or any other documentation it felt it was necessary to obtain. Or, as the adjudicator has done, Quidmarket could've asked to review Mr J's bank statements.

Had further checks been carried out before loan 2 was granted, I think Quidmarket would've discovered that Mr J had two other payday loans outstanding with two other lenders. But the key issue here was that Mr J's income wasn't as high as Quidmarket believed, at loan 2, his

income was around £1,900 per month – which does then make the loan in my view unaffordable given that Quidmarket used outgoings of £1,703 which didn't leave enough disposable income to afford the repayments.

In addition, in the month before the loan was approved, there had been eight returned direct debits and some were returned on more than one occasion. This, according to regulations (in CONC 1.3) is a sign of financial difficulties. So overall Quidmarket should've, carried out additional checks and realised that loans 2 and 3 weren't affordable for Mr J.

I am therefore currently upholding Mr J's complaint about loans 2 and 3 and I've outlined below what Quidmarket needs to do in order to put things right for him including the offer that it has already made.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr J had no new submission, so I've focused here on what QuidMarket said in response to the provisional decision. I've considered everything that has been said but I am still of the view that in addition to loans 4 and 7 loans 2 and 3 should also be upheld and I've explained why below.

Firstly, it may help to confirm the timeline of events and what the adjudicator decided at what point in time. The first assessment was in August 2023, in which the adjudicator upheld loans 1 – 4 and loan 7. Following QuidMarket's comments and a request for further information the adjudicator then endorsed the offer QuidMarket had made for loans 4 and 7 only – this was sent to both parties on 15 September 2023.

Mr J then provided bank statements and in a letter of 12 October 2023, the adjudicator reinstated his original view – which was loans 1 – 4 and loan 7 ought to be upheld.

But regardless of what the adjudicator decided because no agreement could be reached the case was then passed to me to decide. Having reviewed all the evidence, and for the reasons outlined in the provisional decision, I considered a fair outcome to be that Quidmarket pays compensation for loans 2, 3, 4 and 7.

Secondly, at the time loans 2 and 3 were granted, the relevant guidance issued by the regulator (The FCA) was found in part 5.2 of the Consumer Credit Sourcebook (CONC). The rules in place at the time were much the same as those the FCA introduced in November 2018 in CONC 5.2A.

However, there was always a requirement within either guise of the regulations for a proportionate check to be carried out depending on the particular circumstances of the application as outlined in CONC 5.2.1(1) and CONC 5.2.4. It's also worth adding here that CONC 5.2.4.(3)(b) does allow a lender – if it saw fit to gather evidence of a customer's income.

So, in this case, the credit check results that QuidMarket received ought to have put it on notice that there was a risk that Mr J was already having difficulties managing his finances. And, although it was early on in the lending chain, I do think it would've been proportionate for Quidmarket to have undertaken further checks – as was outlined in the provisional decision.

And as I explained, those checks needed to extend to verifying the information Mr J provided and had it done so, I think it was likely that Quidmarket would've discovered that Mr J's

income wasn't as large as he suggested. The bank statements also showed that Mr J had significant problems meeting his existing direct debit payments.

I therefore think, taking account of Quidmarket's most recent submission that Mr J's complaint should still be upheld about loans 2, 3, 4 and 7. I've set out below what QuidMarket needs to do in order to put things right for Mr J.

Putting things right

In deciding what redress Quidmarket should fairly pay in this case, I've thought about what might have happened had it not lent loans 2, 3, 4 and 7 to Mr J, as I'm satisfied it ought not to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Mr J may have simply left matters there, not attempting to obtain the funds from elsewhere. If this wasn't a viable option, they may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, they may have decided to approach a third-party lender with the same application, or indeed a different application (i.e. for more or less borrowing). But even if they had done that, the information that would have been available to such a lender and how they would (or ought to have) treated an application which may or may not have been the same is impossible to reconstruct now accurately. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Mr J in a compliant way at this time.

Having thought about all these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Mr J would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Quidmarket's liability in this case for what I'm satisfied it has done wrong and should put right.

Quidmarket shouldn't have given Mr J loans 2, 3, 4 and 7.

If Quidmarket has sold the outstanding debt it should buy it back if it is able to do so and then take the following steps. If Quidmarket isn't able to buy the debt back, then it should liaise with the new debt owner to achieve the results outlined below.

- A. Quidmarket should add together the total of the repayments made by Mr J towards interest, fees and charges on loan 2, 3 and 4.
- B. Quidmarket should calculate 8% simple interest* on the individual payments made by Mr J which were considered as part of "A", calculated from the date Mr J originally made the payments, to the date the complaint is settled.
- C. Quidmarket should remove all interest, fees and charges from the balance on loan 7, and treat any repayments made by Mr J as though they had been repayments of the principal on this loan. If this results in Mr J having made overpayments then Quidmarket should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. Quidmarket should then refund the amounts calculated in "A" and "B" and move to step "E".
- D. If there is still an outstanding balance, then the amounts calculated in "A" and "B" can be used to repay any balance remaining on loan 7. If this results in a surplus, then the surplus should be paid to Mr J. However, if there is still an outstanding balance then Quidmarket should try to agree an affordable repayment plan with Mr J.
- E. Quidmarket should remove any adverse information recorded on Mr J's credit file in relation to loans 2, 3, 4 and 7.

*HM Revenue & Customs requires Quidmarket to deduct tax from this interest. Quidmarket should give Mr J a certificate showing how much tax it has deducted if he asks for one.

My final decision

For the reasons I've explained above and in the provisional decision, I'm upholding Mr J's complaint in part.

Stagemount Limited trading as Quidmarket should put things right for Mr J as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 12 January 2024.

Robert Walker
Ombudsman