

## The complaint

Mr B complains that Quidie Limited trading as Fernovo (Fernovo) gave him loans he couldn't afford to repay putting him further into a debt spiral.

## What happened

I set out the background to this complaint and my initial findings in my provisional decision dated 14 November 2023 (below)

### *What happened*

*Mr B was granted three loans from Fernovo. A summary of his borrowing can be found in the table below.*

<b>Loan Number</b>	<b>Loan Amount</b>	<b>Agreement date</b>	<b>Repayment due date</b>	<b>Number of instalments</b>	<b>Highest repayment</b>	<b>Date settled</b>
1	£175	1/6/2022	15/8/2022	3	£81.06	24/8/2022
2	£150	24/8/2022	15/12/2022	4	£60.31	3/1/2023
3	£400	4/1/2023	17/3/2023	3	£183.30	Not settled – no payments made

*Following Mr B's complaint, Fernovo wrote to him with a final response letter, outlining why it wasn't going to uphold the complaint. It said it had carried out sufficient checks which showed the loans were affordable. However, it did offer Mr B, in return for withdrawing his complaint, a reduced settlement amount to repay loan number 3 and as an incentive upon settlement it would agree to the removal of all three loans from his credit file.*

*Mr B remained unhappy with the response from Fernovo and referred his complaint to this service.*

*Our adjudicator reviewed Mr B's complaint and didn't think it was one that should be upheld.*

*In summary he said, the checks Fernovo had carried out were proportionate and he didn't think it needed to ask for more information.*

*Mr B disagreed with the outcome. He provided statements showing his income wasn't paid into his bank account, and all monies to and from the account were either*

*transfers from other accounts or other short-term lending. The statements show numerous gambling transactions, and Mr B says had Fernovo checked his statements it would have seen this and should never have agreed to give him the loans.*

*The matter has now been passed to me to decide.*

### ***What I've provisionally 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.*

*I realise that I've summarised this complaint in less detail than the parties and I've done so using my own words. I've concentrated on what I consider to be the key issues. The rules that govern this service allow me to do so. But this doesn't mean that I've not considered everything that both parties have given to me. Having done so I'm intending to uphold Mr B's complaint in part. I'll explain.*

*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.*

*Fernovo had to assess the lending to check if Mr B could afford to pay back the amount he had borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Fernovo'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 B's income and expenditure.*

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

- 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 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.*

*I think that it's important to me to start by saying that Fernovo was required to establish whether Mr B could sustainably repay his loans – not just whether the loan repayments were affordable a strict pounds and pence calculation. Although, having enough money to make the repayments could have been an indicator that Mr B was able to repay his loan sustainably. But it does not automatically follow that this is the case.*

*The regulator of this industry is the Financial Conduct Authority (FCA), it sets the*

rules firms should follow. In this case the relevant rules are the Consumer Credit Sourcebook (CONC). CONC states payments are sustainable if they are made without undue difficulties and in particular, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make the repayments without borrowing further, it follows that it should conclude those repayments are unsustainable.

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

### **Loan 1**

Fernovo asked Mr B to declare his income and expenditure. Mr B declared his monthly income was £2500. Fernovo says it verified this amount through its checks with credit reference agencies. Fernovo also says Mr B declared himself as a homeowner and said his monthly expenditure was £750, including mortgage payment, credit commitments and other living costs.

Fernovo said that as the living expenses Mr B declared were lower than the national adult average, it used figures Office of National Statistics (ONS). It also carried out a credit search to determine Mr B's credit commitments which were £175 higher each month, than he declared in his application. Having done this, Fernovo considered Mr B's living costs were likely to be around £1,194. Leaving him with a disposable income of £1,306 from which to make payments of around £80 per month.

Mr B declared himself as a homeowner with a monthly mortgage payment of £100. The credit check showed Mr B didn't have a mortgage account. But that doesn't mean he wasn't contributing to a mortgage, and even though the monthly amount was low it's not impossible for it to have been true.

So, based only on the information Mr B declared to Fernovo, it's not unreasonable for it to have concluded Mr B would be able to afford to repay this loan.

As I've mentioned above, Fernovo carried out a credit search for this loan and it has shared the results with this service. Looking at the credit file data I can see that Fernovo were aware Mr B had three active loans which he was making his monthly payments towards. It also shows Mr B had three credit cards, that were at or near to the credit limits and a mail order account that was close to the limit, but these were being serviced well with no late payments. So, I don't think anything about these accounts would have been enough of an indicator to prompt Fernovo to carry out more checks.

Given all of the above, and the fact this was the first loan application, for a fairly modest sum I'm satisfied the checks Fernovo carried out were proportionate and it made a reasonable decision to provide this loan.

### **Loan 2**

For this loan, Fernovo carried out similar checks as it had done for the first loan. It verified Mr B's income to be £2,500, it increased Mr B's outgoings from the £750 he declared to £1,294 in line with ONS and his actual credit commitments. This left around £1,206 disposable income to be able to afford a monthly repayment of around £60.

*While on the face of it, Mr B had the disposable income to pay for this loan. As I've mentioned above, Fernovo also had to consider more than just whether the loan was pounds and pence affordable, it also had to consider if the loan was likely to be sustainable for Mr B.*

*As before Fernovo used credit report data to increase Mr B's credit commitments from what he'd declared in the application. And from this it could see since Mr B's last loan, he had:*

- taken an “advance against income loan”*
- taken a new credit card with a limit of £250, and the current balance was £249*
- had been over the limit on another credit card within the last three months*

*It also had the information it held about Mr B, his reliance on credit and his ability to pay, what I mean by this is: Mr B's first loan agreement shows an agreed settlement date of 15 August 2022, but he didn't settle this loan until 24 August 2022, nine days late. And once settled, on the same day he applied for loan two, indicating Mr B had become or was becoming reliant on credit to fill a hole in his finances.*

*I think the above points should have prompted Fernovo to do further checks before agreeing to provide this loan. Had it done so, and looked into Mr B's bank statements, it would have seen Mr B had no income being deposited to his accounts other than transfers from his partner or his other accounts, this is where he was moving money around to hide his actions from his partner. And all outgoings from the account were gambling and gaming. I think had Fernovo seen this, it would have been unlikely to lend to Mr B.*

*It follows I don't think, Fernovo carried out proportionate checks for this loan, nor do I think it made a reasonable decision to lend. I will talk about how Fernovo should put things right at the end of this decision.*

### **Loan 3**

*Again, Fernovo carried out similar checks to those it had done before. It verified Mr B's income to be £2,500 monthly, it increased Mr B's outgoings from the £770 he declared to £1,579 in line with ONS and his actual credit commitments. This left around £921 disposable income to be able to afford a monthly loan repayment of around hundred and £183.*

*Again, on the face of it, Mr B had the disposable income to pay for this loan. But as with loan two, Fernovo had to consider whether the loan was sustainable as well as affordable for Mr B.*

*The new information available to Fernovo when it carried out the credit check the loan three was, Mr B had, since the last loan:*

- taken a new “advance against income loan” of around £1,250*
- been over the limit twice in the last three months on one of his credit cards*

*Again, it could see Mr B hadn't settled loan two on the agreed settlement date of 15 December 2022, he hadn't done so until 3 January 2023. And repeating the pattern*

*of loan two, he had the next day applied for this loan. Indicating he was becoming reliant on credit.*

*So, for the same reasons I've already stated about loan two, I don't think Fernovo carried out proportionate checks for this loan, nor do I think it made a reasonable decision to lend.*

### **Putting things right**

*In thinking about how Fernovo should put things right, I've taken into account that loan three remains outstanding.*

*Fernovo should now:*

- 1. Add together the total of the repayments made by Mr B towards interest, fees and charges on loan two*
- 2. Calculate 8% simple interest† on the individual payments made by Mr B which were considered as part of 'point 1', calculated from the date Mr B originally made the payments, to the date the complaint is settled.*
- 3. Add together 'points 1 and 2' and remove this amount from the outstanding balance of the loan three.*
- 4. Remove all interest fees and charges from loan three.*
- 5. When steps '1 to 5' are complete it should provide Mr B with a statement showing the calculations it's made. And let him know the amount, if any, of any outstanding balance on loan three.*
- 6. If there is an outstanding balance remaining on loan three Fernovo should work with Mr B to make an affordable and sustainable payment arrangement for this.*
- 7. Remove any adverse information it has recorded on Mr B's credit file about loans two and three*

*†Her Majesty's Revenue & Customs may require that Fernovo deduct tax from the interest paid to Mr B. If it does and Mr B requests it, Fernovo must provide him with a certificate showing how much tax it has taken off, so he may reclaim it if appropriate.*

### **My provisional decision**

*For the reasons set out above, I currently uphold this complaint and I require Quidie Limited trading as Fernovo to carry out the actions as set out under the 'Putting things right' section of this decision.*

I invited both parties to let me have anything in response they thought was relevant.

Mr B said he accepted the decision and thought it was a fair resolution.

Fernovo didn't respond.

### **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.

Given that Mr B is happy with the resolution and Fernovo, didn't add any new arguments, I see no reason to depart from my provisional decision above.

## **Putting things right**

Fernovo should now:

1. Add together the total of the repayments made by Mr B towards interest, fees and charges on loan two
2. Calculate 8% simple interest† on the individual payments made by Mr B which were considered as part of 'point 1', calculated from the date Mr B originally made the payments, to the date the complaint is settled.
3. Add together 'points 1 and 2' and remove this amount from the outstanding balance of the loan three.
4. Remove all interest fees and charges from loan three.
5. When steps '1 to 5' are complete it should provide Mr B with a statement showing the calculations it's made. And let him know the amount, if any, of any outstanding balance on loan three.
6. If there is an outstanding balance remaining on loan three Fernovo should work with Mr B to make an affordable and sustainable payment arrangement for this.
7. Remove any adverse information it has recorded on Mr B's credit file about loans two and three

†Her Majesty's Revenue & Customs may require that Fernovo deduct tax from the interest paid to Mr B. If it does and Mr B requests it, Fernovo must provide him with a certificate showing how much tax it has taken off, so he may reclaim it if appropriate.

## **My final decision**

For the reasons set out above, my final decision is that I uphold this complaint and I require Quidie Limited trading as Fernovo to carry out the actions as set out under the 'Putting things right' section of this decision

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 March 2024.

Amber Mortimer  
**Ombudsman**