

The complaint

Miss D complains that PDL Finance Limited (trading as Mr Lender) irresponsibly lent to her.

Background

Miss D was given five loans by Mr Lender between February 2015 and May 2016. A summary of her borrowing is as follows:

Loan	Date Taken	Date Repaid	Instalments	Amount	Max Repayment
1	07/02/2015	31/03/2015	2	£250.00	£165.00
2	31/03/2015	30/06/2015	3	£280.00	£162.77
3	30/06/2015	28/11/2015	5	£340.00	£152.32
4	28/11/2015	30/05/2016	6	£610.00	£262.70
5	30/05/2016	30/11/2016	6	£710.00	£294.41

Miss D's complaint has been looked at by one of our adjudicators. They didn't think Mr Lender had been wrong to give loans 1 to 3 to Miss D. But they did think Mr Lender shouldn't have agreed to lend loans 4 and 5 because her borrowing behaviour indicated she was struggling financially.

Mr Lender disagreed and said it had asked Miss D a series of questions before lending her loan 4 so it feels its checks were proportionate.

As Mr Lender didn't agree with the adjudicator's view, it asked for an ombudsman's decision. So, the complaint it 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 the relevant rules, guidance and good industry practice - on our website.

Mr Lender 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 that Miss D could repay the loans in a sustainable manner. These checks could consider several

different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. 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 Mr Lender should fairly and reasonably have done more to establish that any lending was sustainable for a consumer. 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 is important for me to start by saying that Mr Lender was required to establish whether Miss D could sustainably repay her loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course, the 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 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.

Our adjudicator didn't uphold Miss D's complaint about loan 1 to 3. Miss D didn't respond to the opinion about these loans. As there appears to be no dispute about these loans, I won't be making any further findings on them. But I've kept them in mind when thinking about the overall borrowing relationship between Miss D and Mr Lender.

Having carefully considered all the arguments, evidence and information provided in this context and what this all means for Miss D's complaint, I'm partly upholding the complaint. I'll explain why.

Mr Lender says it carried out more enhanced checks before it lent loan 4 to Miss D and the results of these checks didn't raise any concerns. But as this loan was taken out on the same day as Miss D repaid loan 3 and was for a larger amount which was being repaid over a longer period, I think Mr Lender should have been looking to build a clearer picture about Miss D's finances before lending to her again.

Had Mr Lender carried out proportionate checks before lending loan 4 – such as verifying what she had told it when it had asked her further questions - it's likely to have found that Miss D was spending a significant proportion of her income on on-line gambling websites and was clearly having problems because of that.

In addition, it's likely these further checks would have shown Miss D was borrowing from other short-term lenders and these were increasing her monthly outgoings. This extra borrowing, alongside her use of on-line gambling and the fact she was borrowing a larger amount each time she repaid her previous loans ought to have been an indication that Miss D was in a cycle of debt.

So, I'm upholding Miss D's complaint about loans 4 and 5.

Putting things right – what Mr Lender needs to do

- refund all interest and charges Miss D paid on loans 4 and 5;
- 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 loans 4 and 5 from Miss D's credit file;

† HM Revenue & Customs requires Mr Lender to take off tax from this interest. Mr Lender must give Miss D a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons given above, I'm partially upholding Miss D's complaint. PDL Finance Limited should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 11 June 2020.

Claire Marchant-Williams
Ombudsman