DRN-1421996

The complaint

Mr V says PDL Finance Limited, trading as Mr Lender, ("PDL"), irresponsibly lent to him.

What happened

This complaint is about four short term loans PDL provided to Mr V between

November 2017 and June 2019. Loans 1 to 3 were repayable by three monthly repayments and Loan 4 was repayable by six monthly instalments. Loan 4 hasn't been repaid. Mr V's borrowing history is as follows:

Loan number	Date of loan	Repayment date	Loan amount	Highest monthly repayment amount
1.	20/11/17	26/4/18	£200	£116.26
2.	12/11/18	30/11/18	£200	£132.26
3.	17/12/18	24/5/19	£200	£125.94
4.	12/6/19	outstanding	£600	£311.20

Mr V said that he had a severe gambling addiction at the time of PDL's loans. He also had a large number of other short term loans. He said that another short term lender had upheld his complaint about that lender's loans.

PDL in its final response letter said that as a gesture of goodwill it would be willing to discount the outstanding balance on Loan 4 and close the account, so no further money would be owed by Mr V.

Mr V rejected this offer.

Our adjudicator upheld Mr V's complaint in part. He said that Loan 4 shouldn't have been given. He said that proportionate checks would most likely have shown that Mr V was having problems managing his money as he already had a number of other short term loans outstanding. PDL ought to have realised that Mr V would have been unable to sustainably repay Loan 4.

PDL disagreed. It said that Mr V had told it that he paid £94 to his other loans including short term loans. This had been taken into account when assessing the affordability of Loan 4. It noted that Mr V's disposable income was £884 which meant that he was left with sufficient income even after making the highest repayment on Loan 4. PDL said that it didn't act unreasonably by relying on the information Mr V had given it and it shouldn't be expected to request bank statements or conduct a full review. These were disproportionate checks. It had carried out a credit check and assessed Mr V's income and expenditure. PDL also said that Mr V's payments had never been late and he'd not missed previous repayments. Its checks showed no evidence of financial difficulties.

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. We've set out our general approach to complaints about short-term lending - including all of the relevant rules, guidance and good industry practice - on our website.

I note that Mr V said that another lender had upheld his complaint with it. But we treat each complaint on its own merits. It isn't always appropriate to compare the outcomes of complaints without a detailed understanding of the specific facts of each complaint.

When PDL lent to Mr V the regulator was the Financial Conduct Authority and relevant regulations and guidance included its Consumer Credit Sourcebook (CONC).

PDL 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 Mr V could repay the loans in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, 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 PDL should fairly and reasonably have done more to establish that any lending was sustainable for the 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 PDL was required to establish whether Mr V could sustainably repay his 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 CONC defines sustainable as being without undue difficulties and in particular the consumer 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.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr V's complaint.

There were two chains of lending in this complaint. One started at Loan 1 and the other started at Loan 2 because of a significant gap between Loans 1 and 2. So I think it was reasonable for PDL to treat Mr V as a new customer from Loan 2 and I would have expected PDL to carry out lower checks at the start of this lending chain.

PDL did a number of checks before it lent to Mr V. It asked him for details of his income and expenditure. PDL said that Mr V's declared monthly income was £1,212 before Loan 1 and £1,231 before Loans 2 to 4. Mr V said that his expenditure was between £216 and £347. He lived with his parents.

PDL also checked Mr V's credit file before agreeing to the loans. PDL has provided us with a very brief summary of its credit checks which showed a credit score, that he hadn't been made bankrupt and wasn't in an individual voluntary arrangement in the previous three years. I don't think that the results of these checks should have caused additional concerns to PDL.

I have seen Mr V's credit report but I've not seen anything in the report that I think might have caused additional concerns to PDL about Mr V's financial situation.

I note that Mr V said that he had a large number of payday loans from other lenders at the time be borrowed from PDL. But I'm aware that when a lender carries out a credit search, the information it sees doesn't usually provide the same level of detail that a consumer's credit search will and it isn't necessarily up to date. A lender might only see a small portion of a borrower's credit file, or some data might be missing or anonymised. I'm also aware that not all payday and short term lenders report to the same credit reference agencies. So Mr V's other short term loans may not have been identified by PDL's credit check. So, this may explain any differences between the information provided by PDL's credit check and Mr V's actual situation.

I think that the checks PDL carried out before agreeing Loans 1 to 3 were proportionate. I can see that the repayments that Mr V needed to make were relatively modest compared to the income that he declared to PDL. The highest repayment on these loans was £132.26 on Loan 2. But I don't think the repayment amounts were so large that it's obvious they would've caused Mr V financial difficulty.

So given Mr V's repayment amounts for Loans 1 to 3 and what was apparent about his circumstances at the time, I don't think it would've been proportionate for PDL to ask him for the amount of information that would be needed to show the lending was unsustainable.

And at this stage there wasn't anything in the information Mr V provided or the information PDL should've been aware of, which meant it would've been proportionate to start verifying what he was saying. So I don't think PDL was wrong to give Loans 1 to 3 to Mr V.

I note that Mr V said that he had a severe gambling addiction at the time of PDL's loans. But that wasn't something he told PDL when he asked for the loans. And I don't think it's something that PDL would have seen from proportionate checks on Loans 1 to 3.

I note that Mr V didn't repay Loan 3 on the due date. He only repaid the interest due in his first monthly repayment, and he paid the interest due and a small part of the capital due in his third repayment. He needed two further monthly repayments to repay the loan. I think that this might have caused PDL concerns when 19 days later Mr V borrowed Loan 4.

The loan amount for Loan 4 had significantly increased to £600 and the loan was to be repaid over six months with a highest repayment of £311.20. So Mr V was committing to paying substantially higher repayments and to repaying the loan for a far longer period than any of his previous loans.

I appreciate that PDL had asked Mr V for his income and expenditure including other loans. But in view of Mr V's unsatisfactory repayment history on Loan 3 and the substantially increased amount of his borrowing on Loan 4, I don't think it was reasonable for PDL to base its assessment on the information provided by Mr V without taking steps to independently check what he'd declared. So I think it might have been proportionate at this time for PDL to have independently reviewed the true state of Mr V's finances. As far as I can see PDL didn't do this.

So I need to think about what PDL would've seen if it had carried out proportionate checks. Had it made these, it's likely that PDL would've learnt that Mr V had four outstanding short term loans repayable at the same time as Loan 4. I can see these on Mr V's bank statements. I think that the number and amount of Mr V's outstanding short term loans show that Mr V was having serious problems managing his money and that Loan 4 wasn't likely to be sustainable. So I think it was wrong for PDL to give Loan 4 to Mr V.

So I'm intending to uphold this complaint in part with regard to Loan 4 and say that PDL should put things right as shown below.

I'd also remind PDL to deal with Mr V positively and sympathetically in working with him to come to a suitable repayment plan for any balance outstanding if he is still experiencing financial difficulties.

My final decision

My decision is that I uphold this complaint in part. In full and final settlement of this complaint I order PDL Finance Limited, trading as Mr Lender, to:

1. Refund all interest and charges Mr V paid on Loan 4;
2. Pay interest of 8% simple a year on the refunds from the date they were paid to the date of settlement*;
3. Write off any unpaid interest and charges from Loan 4;
4. Apply the refunds referred to above to reduce any capital outstanding on Loan 4 and pay any balance to Mr V; and
5. Remove all adverse entries about Loan 4 from Mr V's credit file.

*HM Revenue & Customs requires PDL to take off tax from this interest. PDL must give Mr V a certificate showing how much tax it's taken off if he asks for one. If PDL intends to apply the refunds to reduce any outstanding capital balances, it must do so after deducting the tax.

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

Roslyn Rawson
Ombudsman