

The complaint

Mr P complains that PDL Finance Limited (trading as Mr Lender) were irresponsible to lend to him.

What happened

Mr P had four loans from Mr Lender between November 2014 and February 2015 as follows:

<u>Loan</u>	<u>Date</u>	<u>Amount</u>	<u>Term</u>	<u>Max Monthly Repayment</u>	<u>Due</u>	<u>Repaid</u>
1	7 Nov 2014	£200	2m	£150	19 Dec 2014	20 Nov 2014
2	27 Nov 2014	£750	6m	£350	20 May 2015	20 Jan 2015
3	9 Feb 2015	£100	18d	£115.20	27 Feb 2015	10 Feb 2015
4	20 Feb 2015	£300	3m	£193.60	29 May 2015	22 Feb 2016

Mr P says his credit file would have shown excessive borrowing, including from other short-term loan companies, and his bank statements would have revealed a gambling issue. He says if Mr Lender had carried out diligent checks it would have been clear he was in no position to borrow further money.

Mr Lender says it conducted an employment check and a credit check and asked Mr P about his income and outgoings. It says it hadn't been made aware of Mr P's gambling during any of the loan applications and said its checks were sufficient for the loans. Nevertheless, it offered Mr P a £25 voucher as a gesture of goodwill, which Mr P did not accept.

Our adjudicator did not recommend the complaint should be upheld. He was satisfied Mr Lender carried out proportionate checks and there was nothing in the available information to indicate Mr P was struggling to manage his money. Our adjudicator added that he found Mr Lender acted fairly when Mr P told it he was in financial difficulties during loan 4.

Mr P responded to say, in summary, that adequate checks would have shown defaults with four other short-term loan companies, so he could not conclude Mr Lender's credit check was fit for purpose. He added that he'd been declared bankrupt in 2008 and could not understand how Mr Lender said he had a credit score of 590. Mr P also said this service had upheld a similar complaint about Mr Lender where the ombudsman said *"I disagree with Mr Lender that it can only carry out checks which have been suggested by the FCA [Financial Conduct Authority]. The FCA is simply making suggestions, not giving instructions. The obligation is on Mr Lender to carry out proportionate checks, which may include taking steps such as looking at a consumer's bank statements"*.

Specifically, Mr P was concerned that Mr Lender had not verified his declared monthly expenditure, including what he'd said about other short-term loans. He said the fact that his second loan was significantly higher than the first, so shortly afterwards, should have triggered alarm bells.

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.

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 Mr P 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 Mr Lender 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 during which a customer's 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 Mr P 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 the Consumer Credit Sourcebook ("CONC") defines sustainable as being without undue difficulties and in particular 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.

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

Loan 1

When Mr P applied for his first loan with Mr Lender, he said his income was £2,367 and I've seen the payslip Mr Lender used to verify this. As this was Mr P's first loan and the maximum scheduled repayment was just 6% of his income, I'm satisfied the checks carried out by Mr Lender went far enough. So I can't conclude Mr Lender was wrong to have approved Loan 1.

Loan 2

Mr P repaid loan 1 early and within seven days he applied for a further £750 loan. As this was a much higher amount, and was due to be repaid over a longer term, I consider proportionate checks should have included asking Mr P for information about his expenditure. I can see Mr Lender did this, and I can also see the results of the credit check it carried out. Based on the information it had, I don't consider Mr Lender needed to carry out further checks at this stage. I say that because:

- Mr P had a good repayment history to date;
- The highest repayment due on the loan was less than 15% of his verified income;
- Based on Mr P's declared regular expenditure, he had a disposable income of over £1,100 per month;
- There was nothing in the information that Mr Lender had at the time that indicated Mr P was in financial difficulty.

I accept that Mr Lender did not verify Mr P's declared expenditure, but I don't find it was proportionate to have done so at this stage in the lending, given what its existing checks showed.

Loan 3

Again, Mr P repaid his previous loan early so, when he applied for a much smaller loan a couple of weeks later, I can't see there was any reason for Mr Lender to add further checks to the information it already had about Mr P's income, expenditure and credit record.

Loan 4

Mr P cancelled loan 3, but applied for a £300 loan ten days later. As his repayment history remained good and the largest payment on loan 4 was less than 8% of his income, I'm satisfied that Mr Lender's credit check and request for information about Mr P's income and expenditure was proportionate. Again, there was nothing in the available information to indicate Mr P might be in financial difficulties and so I can't see there was any reason to carry out further checks or verify the expenditure information provided by Mr P.

I acknowledge what Mr P says about a previous case that was upheld by this service, but we can only consider cases on their individual merits. In the case he cites, the circumstances of the borrowing, in particular with regard to the repayment amounts relative to income, were very different. Therefore the appropriate proportionate checks are likely to be very different. As the ombudsman in that case said: "*The FCA is simply making suggestions, not giving instructions. The obligation is on Mr Lender to carry out proportionate checks...*". For the above reasons, I find Mr Lender has done that in this case.

I also accept that Mr P was bankrupt in 2008 and, therefore, says his credit score cannot have been 590. I've seen the results of the credit checks carried out by Mr Lender and I'm satisfied they show that credit score at the time of each of the loan applications.

I've also seen the bank statements Mr P provided and, although I acknowledge what he says about his financial circumstances, I cannot conclude that Mr Lender should have carried out a full review of his bank statements before it approved the loans.

In summary, I'm satisfied Mr Lender carried out proportionate checks for all four loans and it did nothing wrong by approving them based on the information it had.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 12 February 2021.

Amanda Williams

Ombudsman