DRN-2833229

The complaint

Mr S complains that PDL Finance Limited, trading as Mr Lender, lent to him irresponsibly.

What happened

Our adjudicator created a loan table using information from PDL and it is duplicated here.

Loan	Loan Amount	Date of Sale	Date Settled	Notes (figures rounded)
1	£300	25/08/2017	12/09/2017 Settled early	Instalment loan – 4 months Highest repayment - £125 Declared Monthly income - £900 Expenditure - £373
2	£300	06/12/2017	02/02/2018 Settled early	Instalment loan – 3 months Highest repayment - £168 Declared Monthly income - £1,150 Expenditure - £373
3	£1,000	13/03/2018	27/11/2018 Settled early	Instalment loan – 12 months Highest repayment - £199 Declared Monthly income - £1,150 Expenditure - £373
Break in borrowing – around 10 months				
4	£1,000	08/09/2019		Instalment loan – 12 months Highest repayment - £209 Declared Monthly income - £1,150 Expenditure - £417

Mr S is represented by a third party. It complained on his behalf to PDL in May 2020.

The final response copy sent to us by PDL was dated July 2020. PDL did not uphold his complaint. Mr S referred his complaint to this Service in July 2020.

One of our adjudicators looked at the complaint and her first letter of opinion indicated that she did not think that PDL had lent irresponsibly.

In response to that, Mr S sent to us a series of bank statements covering the lending period and having reviewed the complaint our adjudicator thought that PDL ought to have carried out more in-depth financial checks for loans 3 and 4. And, had it done so, she thought that PDL would have seen Mr S was having trouble managing his money, so PDL should put things right for Mr S for those two loans.

PDL disagreed and a summary of its objections are here:

- it wanted to understand more of what the phrase '*managing his money'* meant;
- there had been no cause for concern in relation to Mr S' repayment of loans 1 and 2;
- for loan 3, it would have been disproportionate to ask for, and review, additional information such as Mr S' bank statements;
- the gaps in the lending, even where the lending chain was not broken, were significant: between loans 1 and 2, there was a gap of 85 days and between loans 2 and 3 there was a gap of 39 days;
- loan 4 would have been the first loan in the second loan chain and proportionate checks would not have led to a full financial review.

The complaint remained unresolved and was passed to me for a decision. I issued a provisional decision on 11 May 2021 in which I said I was planning not to uphold Mr S' complaint.

PDL has responded and has nothing further to add.

Mr S has responded to say that he does not think that his bank statements have been considered before I issued my provisional decision. These statements show, in his view, that he was not able to manage his finances, the loans funded his gambling and he had to enter a Debt Management Plan (DMP).

I address these points at the end of this decision. My provisional decision findings (set out in italics) are in the next section for completeness.

Now that both parties have responded, I am able to review the complaint and issue my final decision.

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

PDL needed to take reasonable steps to ensure that it did not lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr S could repay the loans in a sustainable manner. These checks could include 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 PDL should fairly and reasonably have done more to establish that any lending was sustainable for the consumer.

These factors include:

- 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);
- 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);
- 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. PDL was required to establish whether Mr S could sustainably repay his loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

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 the ability to repay without undue difficulties. The customer should be able to make repayments on time, while meeting other reasonable commitments, and 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 will not be able to make their repayments sustainably if they need to borrow further in order to do that. I have carefully considered all the arguments, evidence and information provided in this context and what this all means for Mr S' complaint.

My provisional decision findings

And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower will not be able to make their repayments sustainably if they need to borrow further in order to do that. I have carefully considered all the arguments, evidence and information provided in this context and what this all means for Mr S' complaint.

Having reviewed all the information I have from both parties, including two of Mr S' personal credit file reports, his bank statements, his applications to PDL and PDL's credit search results (albeit brief), I have decided that I do not plan to uphold Mr S' complaint. I explain in the paragraphs which follow.

Mr S has not disagreed that loans 1 and 2 have not been upheld and so it seems that he does not dispute that. I have not reviewed those in detail but I do endorse the outcome which was that PDL's checks were proportionate for loans 1 and 2 and, on the current evidence, I do not think that it lent loans 1 and 2 irresponsibly.

PDL's points about loan 3 are outlined above. After two loans for relatively modest sums both of which were repaid early, then I do understand why PDL states that it had no cause for concern. In that context, Mr S applied for a larger loan (£1,000) for a longer period (12 months) and the highest repayment (around £199) was not scheduled to be that different to the originally scheduled highest repayment sum for loan 2 (around £168). Mr S did not apply immediately after repaying loan 2. Mr S had explained that he was living with his parents at the time and his expenditure declared by him reflected that.

The income less his expenditure figure led to PDL calculating that Mr S would have had a disposable income of around £777. This included a declaration that Mr S was paying back some other loans.

PDL has told us that its credit search results did not reveal anything that caused it concern.

Cross referencing the two personal credit file reports Mr S sent to us which cover that period, then I have seen that in or around March 2018 Mr S had the following:

> *- a high cost loan which had commenced in January 2017 for £450 for which he was repaying £57 a fortnight and it ended 14 March 2018. No problems repaying those instalments had been reported. PDL likely would have seen it was about to end;*
> *- a guarantor loan which had commenced in October 2017 which was costing him £247 a month and did end in November 2018;*
> *- regular use of a type of overdraft facility and no difficulties in repaying that had been reported;*
> *- Mr S had a default for a mail order company in February 2016 – two years earlier – and I do not think that it was likely to have caused PDL concern due to its age and that it had been repaid in September 2016.*

I can see that towards the end of 2018 and in 2019 Mr S did start to take a series of high cost loans and other credit, and he has told us that around December 2019 he entered a Debt Management Plan (DMP). But I am being asked to consider the situation surrounding PDL's approval of the loans within the context of the lending history at that time. For loan 3 that was March 2018. I am sorry to see that Mr S' situation deteriorated.

I do not think that PDL would have been expected to carry out a full financial review when Mr S applied for loan 3. One way of doing a full financial review might have been to ask to review Mr S' bank statements. But considering the information I have surrounding the time he applied for loan 3, I would not have expected PDL to have seen them. And so, I do not think that it would have concluded Mr S was dealing with money troubles.

My provisional decision is that PDL carried out the checks I would have expected it to have done for the third loan in this loan chain and so I am planning not to uphold Mr S' complaint about loan 3.

Mr S applied for loan 4 after a considerable break in lending and that means that I think it was reasonable for PDL to approach his application as if he was a new customer.

Mr S had explained that he was living with his parents at the time and his expenditure declared by him reflected that. And so, for a £1,000 loan over 12 months where the highest repayment was scheduled to be around £209, and having reviewed the information Mr S had declared and PDL had discovered, I'd not expect PDL to have done more.

I am planning not to uphold Mr S' complaint about loan 4.

My final decision findings

I have reviewed the complaint and considered Mr S' additional submissions sent through his representative.

The common thread in what Mr S is saying that PDL ought to have looked at his bank statements and if it had it would have seen all manner of additional factors about his financial situation, which he thinks ought to have led it not to lend when he applied to them for the loans.

Turning to loan 3 first, I did review the bank statements for the period leading up to Mr S' application for loan 3, and both sets of his personal credit file reports. This took time. PDL did know of his other debts as Mr S had declared them, and PDL had done a credit search.

I have analysed Mr S' credit file reports to see what Mr S had outstanding in March 2018. I've listed them in my provisional decision findings (in italics) above. One high cost loan was about to end, one was a guarantor loan and one was a type of overdraft facility. The default was from two years before and not one likely to have caused PDL concern and that is what PDL has demonstrated to me.

I was reviewing all the information I had within the context of Mr S approaching PDL for his third loan in March 2018, having successfully repaid loans 1 and 2. Anything that happened after that – for the loan 3 complaint assessment – would not have been relevant.

I explained in my provisional decision, at that stage of the lending relationship with PDL I would not have expected it to have been carrying out a full financial review and so it's not likely that PDL would have asked for Mr S' bank statements. In my view, that would have been a disproportionate approach to the loan 3 application and not what the regulations necessarily required. And so, it would not have known of his gambling. And I have not seen any evidence that Mr S did tell, or was likely to have told, PDL about the gambling.

The income less his expenditure figure led to PDL calculating that Mr S would have had a disposable income of around £777. This included a declaration that Mr S was paying back some other loans. The repayment for loan 3 was around £199. I accept PDL's approach would have led it to consider that loan 3 would not have looked unaffordable.

The loan 4 application was after a large gap in the lending relationship between Mr S and PDL and I have explained in my provisional decision findings (above in italics) why I did not consider it proportionate for PDL to more than it did.

The DMP to which Mr S refers post-dated the lending and so is not relevant to the irresponsible lending complaint.

I realise that Mr S will be disappointed but I see no reason to alter my provisional decision findings and so I repeat them here and they form part of my final decision.

My final decision

My final decision is that I do not uphold Mr S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 18 June 2021.

Rachael Williams
Ombudsman