

The complaint

Ms F complains (through a representative) that Skyline Direct Limited (Skyline) didn't carry out effective affordability checks. Had it done so, then Ms F wouldn't have been provided with the loans.

What happened

Ms F took at least nine loans between February 2015 and February 2021. I've included some of the information we've received about these loans in the table below.

loan number	loan amount	agreement date	loan repayment date	term (weeks)	weekly repayment
1	£200.00	27/02/2015	05/06/2015	20	£14.00
2	£500.00	05/06/2015	14/12/2015	30	£25.00
3	£500.00	14/12/2015	18/07/2016	30	£25.00
4	£300.00	25/07/2016	06/03/2017	30	£15.00
Gap					
5	£500.00	31/07/2017	29/01/2018	30	£25.00
Gap					
6	£250.00	22/07/2019	20/12/2019	30	£12.50
7	£400.00	20/12/2019	17/07/2020	30	£20.00
8	£400.00	31/08/2020	05/02/2021	30	£20.00
9	£500.00	05/02/2021	outstanding	30	£25.00

Following Ms F's complaint Skyline issued its final response letter in April 2021. Skyline concluded that it carried out proportionate checks before advancing these loans to Ms F, and based on the information it gathered from Ms F it was reasonable to lend.

Unhappy with this response, Ms F's representative referred the complaint to the Financial Ombudsman Service.

Skyline didn't consent to consider Ms F's first loan because it was taken out more than six years before she complained. The adjudicator made enquires with Ms F's representative about when she became aware, she could complain. No response was received, so the adjudicator concluded that loan one was complained about too late.

The adjudicator also concluded given what Skyline knew about Ms F and the gaps in lending that it wasn't wrong of it to have advanced loans two, three, six and seven. He upheld loans four, five and nine because in his view, the pattern of lending was now harmful for Ms F.

Finally, he also thought loan eight shouldn't have been provided because there were signs that Ms F was having problems managing her money given a County Court Judgement (CCJ) had recently been added to her credit file.

Overall, he upheld loans, four, five, eight and nine.

Ms F's representative acknowledged receipt of the assessment but didn't provide any further comments.

Skyline said it agreed with the adjudicator's assessment in relation to loan four. But it disagreed with the outcome for loans five, eight and nine, in summary Skyline said:

- Ms F refinanced three of her loans and refinancing is a feature of this product and many of the loans were taken for seasonal items such as Christmas.
- The affordability assessment for loans four and five showed Skyline that these loans were affordable.
- There is a gap of 21 weeks between loans four and five which represents a significant break in lending.
- Loans eight and nine were also affordable following the affordability assessment and credit check.
- Skyline was aware of the CCJ but even taking the repayment for this into account the loan still looked affordable.
- Ms F did have some financial problems while repaying loan 9 but Skyline offered her support. The last payment it received towards this loan was in December 2021.

Following the above comments, the adjudicator wrote to both Skyline and Ms F informing them the case was being passed to an ombudsman. At which point Skyline reaffirmed its offer to uphold loan4. It also made, in summary, the following comments:

- There are two gaps in the lending relationship.
- There was no change in Ms F's credit commitments between loans 8and9.
- There were no defaults recorded within 12 months of these applications.
- Despite Skyline's efforts it has struggled to reach Ms F in order to rearrange to repay her balance.
- Ms F hasn't provided any evidence to suggest that these loans were unaffordable for her.

I issued my provisional decision explaining the reasons why I was also intending to uphold Ms F's complaint in part – but I was intending to uphold fewer loans. A copy of the background to the complaint and my provisional findings follow this in italic and a smaller font and forms part of this final decision.

What I said in my provisional decision:

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.

Ms F appears to agree with our adjudicator's findings about loans 1 – 3 and loan 6 - 7. So, I no longer think this lending is in dispute so I no longer need to make a finding about them. But I have kept these loans in mind when thinking about the overall lending relationship between Skyline and Ms F.

Skyline has also accepted that something went wrong when loan 4 was granted, and it offered to put things right for Ms F in line with the adjudicator's recommendations. So, like the loans the adjudicator didn't uphold, this loan is no longer in dispute, but for completeness I've included what Skyline needs to do to put things right in the 'putting things right' section at the end of the decision.

Instead, this decision will focus on whether Skyline did anything wrong when it granted loans 5, 8 and 9.

Skyline had to assess the lending to check if Ms F could afford to pay back the amounts she'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Skyline's checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Ms F's income and expenditure.

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

- Ms F 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);*
- Ms F 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);*
- Ms F 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 for Ms F.

Skyline was required to establish whether Ms F could sustainably repay the loans – not just whether she technically had enough money to make her repayments. Having enough money to make the repayments could of course be an indicator that Ms F was able to repay her loans sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that 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 their repayments without borrowing further, then 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 Ms F's complaint.

Loan 5

As the adjudicator has pointed out, by loan five Ms F had taken four previous loans in around 29 months which is why the adjudicator thought this loan should be upheld.

Overall, I don't think the loan activity was quite enough to suggest Ms F had become reliant on this lending. I do accept that loan five was larger than loan four, which led to a larger weekly commitment to Skyline. But I can't ignore the nearly five month gap between Ms F repaying loan four and being advanced loan five.

Skyline says that this should've led to a new lending chain and therefore a new relationship. But I don't agree, Ms F was now returning for further relending for a larger amount compared to the previous loan. In addition to this Ms F had been indebted to Skyline for over two years for loans 1 – 4.

But, I don't think this loan was inherently harmful or unsustainable for Ms F. After all, she'd not needed any credit from Skyline for nearly five months which I feel shows that there may have been a change in her circumstances.

So, while I'm not upholding this loan for the same reasons as the adjudicator, that still

doesn't mean I think Skyline did all it needed to do.

But that doesn't mean that Skyline carried out a proportionate check. Ms F had been almost continuously indebted to Skyline for 25 months prior to this loan, and she was returning for further credit, extending her indebtedness for at least another 30 weeks.

Overall, I don't think it was reasonable for Skyline to have relied on what Ms F declared to it about her income and expenditure. Even though this information suggested Ms F had disposable income of around £560 per month which would suggest that she would be in a position to afford the weekly repayments of £25.

Instead, I think it needed to gain a full understanding of Ms F's actual financial position to ensure loan five was affordable. This could've been done in several ways, such as asking for evidence of outgoings or looking at bank statements and/or Ms F's credit full report. This might've helped verify information provided and revealed whether there was any other information that Skyline might've needed to consider about Ms F's general financial position.

However, that isn't the end of the matter. For me to be able to uphold these loans, I have to be satisfied that had Skyline carried out a proportionate check it would've likely discovered that Ms F couldn't afford this loan.

Ms F hasn't provided the Financial Ombudsman with a copy of her bank statements. But she has provided a copy of her full credit report from one of the credit reference agencies. While it was produced in April 2021; it will contain information about Ms F's situation when this loan was approved in July 2017.

I've looked at her credit report, and there doesn't appear to show a lot of other credit commitments at the time. It looks like she had a mobile phone contract and a current account. But there is no other evidence of financial difficulties. So, based on the credit report I've been provided it seems like Ms F could've afforded the repayment she was due to make.

But, it is worth pointing out that I've not been able to verify Ms F's other living costs and her contributions towards them. So, without any further information from Ms F about her living costs, it's difficult for me to conclude what Skyline would've seen had it made better checks.

Looking at everything together though, I've not seen quite enough evidence to suggest Skyline shouldn't have lent loan five. Even considering what Ms F declared to Skyline for her income and expenditure, loan five appeared affordable. I'm not minded therefore to think Skyline was wrong to have provided this loan.

As this is the case, I'm intending to not uphold Ms F's complaint about this loan.

Loan 8

The adjudicator upheld this loan because in his view there were signs that Ms F was having problems managing her money because she had recently had a CCJ recorded against her, which was active and she was still repaying. And knowing this Skyline shouldn't have lent.

As I said earlier, Skyline disagreed with this. It said the checks it carried out were within the guidelines and were proportionate. It was aware of the CCJ but it was satisfied that Ms F was making repayments towards the balance and even factoring those payments into the affordability assessment she still had sufficient disposable income to be able to afford the repayments she was committed to making.

I do agree with Skyline that it would seem, based on the information it gathered, this loan would've looked affordable to Ms F. But, on top of the loan being affordable, STF also had to consider whether the loan repayments were likely to be sustainable, given everything else that it knew about Ms F's finances.

I've thought carefully about what both the adjudicator and Skyline said in relation to this loan

and I do think, given what I've seen that Ms F was likely having problems managing her money.

Skyline says it was aware that there was a CCJ, which is quite serious to have been recorded on her credit file. It was also, in my view, missed payments for a priority debt – council tax and are no payments that you would ordinarily want to miss. So, to me this does suggest that Ms F was likely having financial difficulties. The CCJ was recorded on her credit file in February 2020, so only six months before this loan was advanced.

Skyline says a credit check was carried out for this loan but it hasn't provided the Financial Ombudsman with the results so I don't know what it may or may not have seen.

But, even if I thought the CCJ alone wasn't enough to uphold the complaint, a further review of Ms F's credit file showed in my view further financial difficulties. Ms F had defaulted on a further four accounts in around the preceding 14 months. In my view, the defaults along with the CCJ indicates to me that Ms F was likely having financial difficulties.

So, I do think, Skyline had information which suggested Ms F was likely having financial difficulties and I don't see how advancing further credit to someone who had recently had four defaults and a CCJ recorded against them was sustainable. I'm therefore intending to uphold Ms F's complaint about loan 8.

Loan 9

The loan being pounds and pence affordable is only part of the consideration. So, I haven't felt the need to recreate individual, proportionate affordability checks for this loan because I didn't consider it necessary to do so. Although, I accept, based on what Skyline provided this loan would've looked affordable to it.

So, in addition to assessing the circumstances behind each individual loan provided to Ms F, Skyline also needed to consider the overall pattern of lending and what unfolded during the course of its lending relationship with Ms F.

Having looked at the overall pattern of Skyline's lending history with Ms F, I agree with our adjudicator that at this point in time, Skyline should reasonably have seen that further lending was unsustainable, or otherwise harmful, at the time it provided loan 9. I say this because;

- At this point Skyline ought to have realised Ms F was not managing to repay her loans sustainably. Ms F had taken out four loans in around 18 months and she had been indebted to Skyline for the entire time, in this lending chain. So Skyline ought to have realised it was more likely than not Ms F was having to borrow further to cover an ongoing need and that Ms F's indebtedness was increasing unsustainably and her underlying financial situation didn't seem to be improving.
- By loan 9, Ms F's weekly repayments were double compared to loan six (first loan in the new chain). She started paying £12.50 per week but was now committed to paying £25 per week. So, Ms F's weekly repayments were increasing which suggests that the loans weren't sustainable for her and her borrowing hadn't decreased over the lending relationship.
- Loan 9 was also Ms F's largest loan to date within this lending chain, further signs that her indebtedness was increasing rather than decreasing.
- Ms F normally took new loans on the same day as previous loans were repaid. Skyline ought to have realised it was more likely than not Ms F, on these occasions, was having to borrow further to effectively cover a long-term financial need. To me, this is indicative of her indebtedness not being sustainable.

I think that Ms F has lost out because Skyline provided her with loan nine because:

- these loans had the effect of unfairly prolonging Ms F's indebtedness by allowing her to take expensive credit over an extended period of time and
- the number of loans and the length of time over which Ms F borrowed was likely to have had

negative implications on her ability to access mainstream credit and so kept her in the market for these high-cost loans.

So, overall I'm intending to uphold the complaint about loans 4, 8 and 9.

Response to the provisional decision

Both parties were asked to provide any further comment or evidence they wanted considering in the final decision no later than 25 March 2022.

Skyline responded to the provisional decision and it said that it doesn't agree with the proposed outcome for loans 8 and 9. Skyline says before these loans were approved it carried out:

- A credit check.
- It verified Ms F's income through an online 'portal'
- The credit commitments Skyline discovered from the credit check were applied to the affordability assessment.
- A further £25 per week 'buffer' to cover unexpected expenditure.

Skyline says that these checks were provided in its submission to the Financial Ombudsman Service but don't appear to have been considered.

Finally, it provided the reasons as to why Ms F took out these loans and Skyline says this formed part of its assessment whether she was reliant on credit.

Ms F's representative acknowledged receipt of the provisional decision and explained it would contact Ms F to see whether she had anything further to add.

No further contact has been received and given the deadline for the responses to the provisional decision has passed, I don't consider it unreasonable to proceed to issue a 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.

As I explained in the provisional decision, based on the checks that were carried out before loans 8 and 9 were advanced Skyline would've been satisfied that Ms F had sufficient disposable income to be able to afford to repay these loans.

But as I explained in the provisional decision, the loan being pounds and pence affordable is only part of the consideration. As part of any loan application Skyline is required to consider whether the loan is also sustainable.

For loan 8, Skyline was aware of the CCJ that had recently been recorded on Ms F's credit file. It said that as she was able to meet the repayment, she was making towards this debt that it was reasonable to lend. I've thought about that, but for the reasons I've outlined in the provisional decision, I don't think its decision to lend was reasonable.

And, as I said previously, even if the CCJ on its own wasn't sufficient, I have a copy of Ms F's credit report, and in my view, there is other concerning information on there such as some defaults which further highlight to me that Ms F was having wider financial difficulties and so it wasn't a fair lending decision to advance this loan.

It's also worth saying at this point, that Skyline hasn't provided the Financial Ombudsman with the results of the credit checks that it says were carried out. So, I don't know exactly what information it was provided with.

The reason why a loan may be needed, in this case, Skyline has told us loan 8 was for a wedding and loan 9 for a one-off purchase. But these are just some of the factors that go into deciding whether loan(s) should be upheld.

I also must consider, what else Skyline knew about Ms F, the term of the loan, the loan amount, any other information it may have and what has gone on before, in the overall lending relationship.

It's this wider information and the overall circumstances of the lending that led me to conclude that loan 9 was now harmful for Ms F – for the reasons I've outlined above because the loan was unsustainable. So it is, at this point I'm less concerned with what checks Skyline did (or didn't) carry out. The overall pattern of lending was by loan 9, in my view harmful and it shouldn't have been advanced, for the reasons outlined in the provisional decision.

Skyline's comments haven't made me think that I need to change the outcome I was intending to reach. So, I still think Skyline was wrong to have advance loans 4, 8 and 9 and I've set out below what it needs to do in order to put things right for Ms F.

Putting things right

In deciding what redress Skyline should fairly pay in this case I've thought about what might have happened had it not lent loans 4, 8 and 9, as I'm satisfied it ought to have.

Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Ms F may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between them and this particular lender which they may not have had with others. If this wasn't a viable option, they may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, they may have decided to approach a third-party lender with the same application, or indeed, a different application (i.e. for more or less borrowing). But even if they had done that, the information that would have been available to such a lender and how they would (or ought to have) treated an application which may or may not have been the same is impossible to now accurately reconstruct. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Ms F in a compliant way at this time.

Having thought about all of these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Ms F would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Skyline's liability in this case for what I'm satisfied it has done wrong and should put right.

Skyline shouldn't have given Ms F loans 4, 8 and 9.

If Skyline has sold the outstanding balance it should buy it back if it is able to do so. If Skyline can't buy it back, then it should liaise with the debt owner to achieve the results outlined below.

- A. Skyline should add together the total of the repayments made by Ms F towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything Skyline have already refunded.
- B. Skyline should calculate 8% simple interest* on the individual payments made by Ms F which were considered as part of "A", calculated from the date Ms F originally made the payments, to the date the complaint is settled.
- C. Skyline should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Ms F as though they had been repayments of the principal on the outstanding loan. If this results in Ms F having made overpayments then Skyline should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. Skyline should then refund the amounts calculated in "A" and "B" and move to step "E".
- D. If there is still an outstanding balance, then the amounts calculated in "A" and "B" should be used to repay any balance remaining on outstanding loans. If this results in a surplus, then the surplus should be paid to Ms F. However, if there is still an outstanding balance then Skyline should try to agree an affordable repayment plan with Ms F. Skyline shouldn't pursue outstanding balances made up of principal Skyline have already written-off.
- E. Skyline should remove any adverse information recorded on Ms F's credit file in relation to loan 8. The overall pattern of Ms F's borrowing for loans 4 and 9 means any information recorded about them is adverse, so Skyline should remove these loans entirely from Ms F's credit file. Skyline does not have to remove loan 9 from Ms F's credit file until it has been repaid, but Skyline should still remove any adverse information recorded about it.

F.

*HM Revenue & Customs requires Skyline to deduct tax from this interest. Skyline should give Ms F a certificate showing how much tax it has deducted, if she asks for one.

My final decision

For the reasons I've explained, above and in the provisional decision I'm upholding Ms F's complaint in part.

Skyline Direct Limited should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 27 April 2022.

Robert Walker
Ombudsman