DRN-4433293

The complaint

Mr W has complained that PDL Finance Limited trading as Mr Lender ("Mr Lender") gave him loans which he couldn't afford to repay.

What happened

Mr W was advanced five loans and a summary of his borrowing can be found below.

loan number	loan amount	agreement date	repayment date	number of instalments	largest repayment per loan
1	£250.00	13/02/2019	09/03/2019	5	£134.00
2	£350.00	21/03/2019	28/09/2019	6	£170.33
3	£750.00	28/09/20219	02/11/2020	12	£173.71
Break in lending					
4	£300.00	31/05/2021	16/11/2021	6	£122.00
Break in lending					
5	£760.00	27/05/2022	Outstanding	9	£239.48

All of the loans were structured so that payments decreased each month.

Following Mr W's complaint about the sale of the loans, Mr Lender wrote to him to explain that it wasn't going to uphold the complaint about loans 1, 2 and 4 because it had carried out proportionate checks.

However, for loan 3, Mr Lender accepted that it ought to have done more before it approved it – and it offered to uphold the loan by refunding the interest Mr W paid, along with 8% simple interest. Mr Lender also agreed to only collect the capital that was advanced for loan 5. Mr Lender explained the refund from loan 3 would be used to offset the outstanding balance due for loan 5 (which would result in the loan being repaid) and finally, it said it would *"Remove each of your loans with Mr Lender entirely from your credit file."*

Unhappy with this offer, Mr W referred the complaint to the Financial Ombudsman.

An adjudicator then considered the complaint and she said Mr Lender's offer for loans 3 and 5 was in line with what she would've recommended had she upheld these loans. As such the adjudicator said she wouldn't look at these loans – instead she looked at loans 1, 2 and 4. The adjudicator concluded that Mr Lender hadn't made an error when it approved loans 1, 2 and 4 and so didn't uphold that part of his complaint.

Mr W didn't agree saying that all loans were irresponsibly provided, full credit checks weren't conducted and these loans were used to repay other payday lenders.

As no agreement has been reached, the case has been passed to me to resolve.

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 this type of lending - including all the relevant rules, guidance and good industry practice - on our website. And I've used that to help me decide this complaint.

Mr Lender had to assess the lending to check if Mr W could afford to pay back the amounts he'd borrowed, without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Mr Lender'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 Mr W'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 Mr Lender should have done more to establish that any lending was sustainable for Mr W. These factors include:

- Mr W 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);
- Mr W 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);
- Mr W 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 Mr W. The adjudicator didn't think this applied to Mr W's complaint and I agree, considering the breaks in lending.

Mr Lender was required to establish whether Mr W could *sustainably* repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr W was able to repay his loans sustainably. But it doesn't automatically follow that this is the case.

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

I am also not going to be making a formal finding about loans 3 and 5 because an offer has already been made – and I've explained why later on in the decision. Instead, this decision will focus on whether Mr Lender did all it needed to do before it granted loans 1, 2 and 4.

There are also gaps between some of the loans for example between 3 and 4 and 4 and 5. The effect of these gaps means that these are new lending chains. So, although, Mr W had five loans in total this was spread across three lending chains. Having several lending chains will impact what a proportionate check may be, because after each break in lending it would've been reasonable for Mr Lender to have treated Mr W as if he was a new customer. I've kept these gaps in mind when thinking about the lending relationship.

Loans 1 and 2

Mr W declared his monthly income was £1,400 for both loans for the first two loans of a lending relationship I think it was fair and reasonable for Mr Lender to have relied on what Mr W had declared.

Mr W declared monthly outgoings of £1,000 for loan one and £1,088 for loan two – this was across a number of different categories including rent /mortgage, utilities, food, transport and other credit commitments to name a few. Based solely on the income and expenditure information Mr Lender gathered, Mr W had enough disposable income to afford the largest repayment for each loan.

I don't think the information Mr W declared would've prompted Mr Lender to have checked the information it was being provided. This means I don't think it would've needed to have viewed Mr W's bank statements.

Before the loans were approved, Mr Lender also carried out credit searches and it has provided the Financial Ombudsman with a summary of the results it received from the credit reference agency. I want to add that, although Mr Lender carried out a credit search, there isn't a regulatory requirement to do one, let alone one to a specific standard.

Having looked at the credit results, there wasn't anything in my view, that would've led Mr Lender to have carried out further checks. It knew Mr W wasn't insolvent either through an Individual Voluntary Arrangement, bankruptcy or a County Court Judgement within the three years preceding each loan.

In addition, it was given information to suggest that for loan one Mr W had one outstanding outstanding payday loan and he didn't have any when loan two was granted. But the presences of one other payday loan wouldn't have, in my view have prompted Mr Lender to have either carried out further checks or to have declined the applications for credit. This is because payments towards other loans were factored into the expenditure assessment, which suggested each loan was affordable.

There also wasn't anything to suggest, from the checks Mr Lender carried out, that Mr W was using these loans to repay other payday loans. Loan one was repaid early and without any obvious difficulties. So, I think it was reasonable for Mr Lender to have relied on the information Mr W gave about his circumstances, as well as the information it received from the credit search - which showed both loans to be affordable.

I am therefore not upholding Mr W's complaint about loans one and two.

Loan 4

After Mr W repaid loan three, he didn't return for a new loan for nearly seven months. This break in borrowing is significant enough for Mr Lender to have treated Mr W's application afresh and as if he was a new customer.

So, while it was Mr W's fourth loan, it was in effect the first loan in a new chain of borrowing and this does impact what a proportionate check may be. I've kept this in mind when thinking about this loan.

Mr W declared a monthly income of £1,500 for this loan and given it was the first loan in a new lending chain, I think it was reasonable for Mr Lender to have relied on what it was told.

In terms of expenditure, Mr W declared monthly outgoings, using the same of categories for loans one and two and this time he declared outgoings of £521. The income and expenditure information Mr Lender gathered showed that Mr W had enough disposable income to afford the loan repayments.

This has also led me to conclude that I don't think it would've been prompted to have checked the information it was provided any further. This means I don't think it would've needed to have viewed Mr W's bank statements.

Like the earlier loans, Mr Lender also carried out a credit search. It's provided a summary of the results that it received. I've once again considered what it was told. The results were similar to what Mr Lender received for loans one and two. There wasn't anything that would've led Mr Lender to have carried out further checks. It knew Mr W wasn't insolvent, within the three years preceding the loan. It also knew, based on what it was told, that Mr W didn't have any outstanding payday loans.

There were no signs from the credit check results which indicated Mr W was in financial difficulties, was having problems managing his existing credit commitments or had unsustainable levels of debt.

Overall, given the checks Mr Lender carried out I'm satisfied it was entitled to rely on the information Mr W declared. In my view, the checks Mr Lender carried out were proportionate and showed Mr W could afford the repayments. There also wasn't anything else to suggest these loans would either be unaffordable or unsustainable for him.

I'm therefore not upholding Mr W's complaint about the approval of four.

Loans 3 and 5

Mr Lender has already agreed, as outlined in the final response letter to pay compensation for what it did wrong in advancing loan 3 – and it made an offer to settle loan 5.

The redress it has offered is in line with what the Financial Ombudsman Service would've asked Mr Lender to do, had we decided these two loans ought to not have been granted. So, I don't need to make a finding on whether Mr Lender did all it ought to have done before providing these loans.

As Mr Lender has already accepted something went wrong and has proposed fair compensation which is fair and reasonable in circumstances of the whole complaint and so this is what Mr Lender should pay Mr W in order to resolve the complaint. For completeness, I've outlined below the offer Mr Lender has agreed to make.

Putting things right

In line with the offer Mr Lender made in its final response letter of 23 May 2023 it should do the following:

A. Mr Lender should add together the total of the repayments made by Mr W towards interest, fees and charges on loan 3.
B. It should then calculate 8% simple interest* on the individual payments made by Mr W which were considered as part of "A", calculated from the date Mr W originally made the payments, to the date the complaint is settled.
C. Mr Lender will then reduce loan 5 to the remaining capital balance and then use the refund calculated in "A" and "B" to offset the remaining balance and then pay the surplus to Mr W.
D. As Mr Lender agreed, it will remove all the loans from Mr W's credit file.

*HM Revenue & Customs requires Mr Lender to deduct tax from this interest. Mr Lender should give Mr W a certificate showing how much tax it has deducted, if he asks for one.

My final decision

PDL Finance Limited has already made an offer for loans 3 and 5, as outlined in the final response letter to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that PDL Finance Limited should pay Mr W this offer.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 1 December 2023.

Robert Walker
Ombudsman