

The complaint

Miss F complains PDL Finance Limited trading as Mr Lender ("Mr Lender") gave her loans she couldn't afford to repay. She also says these loans ought to not have been granted because at the time she was in an Individual Voluntary Arrangement (IVA).

What happened

A summary of Miss F's borrowing can be found below.

loan number	loan amount	agreement date	repayment date	number instalments	highest repayment per loan
1	£200.00	25/08/2022	28/02/2023	6	£90.93
2	£250.00	28/02/2023	outstanding	6	£103.66

Each loan was structured so that each payment subsequent from the first decreased in value through the life of the loan.

Following Miss F's complaint Mr Lender wrote to her in August 2023 to explain it wasn't going to uphold her complaint about irresponsible lending because it had carried out proportionate checks. It also confirmed the credit checks didn't show any signs that Miss F was or was likely having financial difficulties. Unhappy with this response, Miss F referred the complaint to the Financial Ombudsman.

An investigator then considered the complaint, and he didn't uphold it because he said Mr Lender had carried out proportionate checks which showed each loan was affordable. He also explained that although Mr Lender carried out a credit search it wasn't informed about the IVA and he suggested it may have been because the IVA had been registered while Miss F lived at a different address.

Miss F didn't agree, saying that she was now in the final year of her IVA and a search would've revealed that she had one. Finally, Miss F also said her IVA had been registered at her current address since 2022.

The investigator explained why these points hadn't changed his mind and as no agreement could be 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 Miss 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. 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 Miss 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 Mr Lender should have done more to establish that any lending was sustainable for Miss F. These factors include:

- Miss 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);
- Miss 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);
- Miss 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 Miss F. The investigator didn't think this applied to Miss F's complaint because there were only two loans and I agree.

Mr Lender was required to establish whether Miss 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 Miss F was able to repay her 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 Miss F's complaint. I want to start by saying that I'm sorry to hear about Miss F's health in recent years, I do hope things have improved for her and she is now in a better space.

For these loans Mr Lender asked Miss F to declare her income and expenditure details and it also carried out credit searches. Having thought about these checks I'm satisfied they were proportionate, and the checks showed the loans to be potentially affordable. I've explained why below.

Miss F declared her monthly income to be £2,000 when loan one was advanced and £2,100 when loan two was given. For loan two only, Miss F's declared monthly income was checked with a tool provided by a credit reference agency for its accuracy. Mr Lender says the check indicated Miss F's income was likely to be accurate. Solely, in relation to the checks Mr Lender carried out in regard to the income, I think these were proportionate.

Miss F also declared monthly outgoings of £1,586 for loan one and £1,450 for loan two. There was a sufficient amount of disposable income for these loans, to enable Mr Lender to reasonably believe she could afford the repayments she was committed to making. So, I think it was reasonable for Mr Lender to have relied on what Miss F declared without the need to ask for further evidence of her income or her outgoings.

Before these loans were approved Mr Lender also carried out a credit search and it has

provided the Financial Ombudsman with a copy of 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.

Mr Lender was also entitled to rely on the information it was given by the credit reference agency. This does mean the information Mr Lender may receive could be different to what Miss F can now see in the credit report she is able to download. I've looked at the results to see whether there was anything contained within it, that would've either prompted Mr Lender to have carried out further checks or possibly have declined Miss F's application.

This is the crux of the complaint, because Miss F says that she was in an IVA at the time and so shouldn't have been lent to. Firstly, Mr Lender accepts that had it been aware that Miss F was subject to an IVA it wouldn't have lent to her – indeed this is backed up by what it says on its website. What I've had to do, is decide whether Mr Lender knew or ought to have known about Miss F's IVA.

Firstly, Miss F as part of her application does appear to have electronically signed an application to confirm that at the time, she wasn't subject to an IVA. In the absence of any other contradictory information being received Mr Lender was entitled to rely on the declaration.

It then carried out a credit search before each loan and the raw data that it received from the credit reference agency has been supplied and having reviewed that the credit check results Mr Lender was informed that Miss F wasn't subject to an IVA.

I know this to be incorrect – Miss F was under the terms of an IVA at the time. But what is also clear is that Mr Lender had no reason to believe that she was because Miss F had told Mr Lender she wasn't in an IVA and the credit check results showed no IVA either.

So, there was no indications that Miss F was in an IVA so I really don't think I can fairly conclude that a lack of any detail about an IVA ought to have prompted Mr Lender to do further, more in-depth checks such as review the insolvency register because there was no need for it to do so.

Mr Lender has suggested that one reason why the IVA didn't show up was that it was recorded at a different address. I've searched the insolvency register and I can see that it was reported while Miss F had a different address. That may explain why Mr Lender wasn't aware of the IVA or there is some other reason such as the quality of the credit search. But whatever the reason, I can't fairly say that Mr Lender shouldn't have advanced these loans because of an IVA it was unaware of.

Overall, proportionate checks were conducted by Mr Lender before it gave either loan which showed Miss F could potentially afford the repayments. I'm also satisfied it was entitled to rely on the information Miss F declared about her income and expenditure. There also wasn't anything else to suggest the loans were either unaffordable or unsustainable for her.

So, I don't think Mr Lender did anything wrong when it approved the loans for Miss F and it follows, I'm therefore not upholding Miss F's complaint.

An outstanding balance remains due and therefore I would remind Mr Lender of its regulatory obligation to treat Miss F fairly and with forbearance taking account of what Miss F declared to it about her health in the letter of complaint – if necessary.

My final decision

For the reasons I've outlined above, I am not upholding Miss F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 6 March 2024.

Robert Walker
Ombudsman