

## The complaint

Mr L complained that PDL Finance Limited trading as Mr Lender (“Mr Lender”) gave him loans he couldn’t afford to repay and the correct checks weren’t conducted before it lent.

## What happened

A summary of Mr L’s borrowing can be found in the table below;

| loan number    | loan amount | agreement date | repayment date | number of instalments | highest repayment per loan |
|----------------|-------------|----------------|----------------|-----------------------|----------------------------|
| 1              | £200.00     | 31/01/2019     | 18/03/2019     | 3                     | £117.86                    |
| 2              | £200.00     | 18/03/2019     | 02/04/2019     | 4                     | £83.60                     |
| 3              | £380.00     | 05/05/2019     | 17/06/2019     | 6                     | £152.61                    |
| 4              | £500.00     | 28/06/2019     | 28/07/2019     | 12                    | £142.91                    |
| 5              | £1,000.00   | 09/08/2019     | 01/11/2020     | 12                    | £236.33                    |
| Gap in lending |             |                |                |                       |                            |
| 6              | £200.00     | 26/04/2022     | 10/05/2022     | 3                     | £124.26                    |
| 7              | £1,000.00   | 10/05/2022     | Outstanding    | 12                    | £206.96                    |

Following Mr L’s complaint, Mr Lender wrote to him to explain why it wasn’t going to uphold the complaint about loans 1 – 3 and loans 6 and 7. It said this because it had carried out proportionate checks. However, Mr Lender accepted the following in relation to loans 4 and 5:

*“Upon review of these loans and your borrowing history with Mr Lender, we believe we could have increased our checks. After we have retrospectively reviewed your account and complaint, we believe that upon application of these loans, there were factors that could have led further assessments being carried out into your financial situation.”*

In order to put things right for Mr L it agreed to refund the interest, fees and charges applied to those loans and to that it would add 8% simple interest. It would then use this refund to offset Mr L’s outstanding balance – which would still leave him with £296.70 to pay. It also offered to remove each of the loans from Mr L’s credit file, including loan 7 but only after that had been repaid.

Mr L didn’t accept this offer and instead he referred the complaint to the Financial Ombudsman. Mr Lender also confirmed this offer is still available to Mr L.

An investigator then considered the complaint. She said Mr Lender made a reasonable decision to provide loans 1 – 3 and loan 6 and she also said Mr Lender had already made a reasonable offer to settle the complaint in relations to loans 4 and 5.

However, the investigator thought loan 7 shouldn’t have been granted saying further checks ought to have been conducted taking account of the loan value and term. Had Mr Lender carried out further checks it would’ve likely discovered Mr L couldn’t afford the repayments.

Mr L appears to have accepted the investigator's outcome. Mr Lender didn't agree, and it sent a number of emails and I've summarised the points it made below:

- There was a 17-month break between loans 5 and 6 which led to loan 6 being the start of a new lending chain. However, Mr L withdrew from the credit agreement for loan 6 and so loan 7 in effect became the first loan of a new chain.
- The term and loan amount aren't on its own enough to have prompted Mr Lender to carry out further checks.
- Mr Lender verified Mr L's income for loan 7 through open banking – but Mr Lender explained that it isn't given access to any transaction data.
- It also reviewed his expenditure in line with third party data from the Office of National Statistics (ONS) and Credit Reference Agencies (CRA). Upon comparison the higher figure was used – either from the reports or from what Mr L had declared.
- Mr Lender made enquires as to why Mr L needed the loan.
- The loan was affordable for Mr L based on the income and expenditure checks.

The complaint was then passed to me, and I issued a provisional decision outlining why I thought Mr Lender's offer as outlined in the final response letter was a fair and reasonable outcome for the complaint. So Mr Lender didn't need to do anymore.

Both parties were asked to provide any further submissions in response to the provisional decision as soon as possible, but in any event, no later than 6 February 2024.

Mr Lender said it didn't have anything further to add and we didn't hear from Mr L.

A copy of the provisional findings follows this 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 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 L could afford to pay back the amounts he'd borrowed, plus the interest due, 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 L'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 L. These factors include:*

- *Mr L 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 L 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 L 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 L. The investigator didn't think this applied to Mr L's complaint given the break in lending and I agree.*

*Mr Lender was required to establish whether Mr L 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 L 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 L's complaint.*

*Both Mr L and Mr Lender agreed with the outcome the investigator reached for loans 1 – 3 and loan 6, so I don't propose to reconsider those loans here because they are no longer in dispute. In addition, Mr Lender has already accepted, as outlined in the final response letter that it ought to not have granted loans 4 and 5. In my view, this offer is fair and reasonable and in line with what the Financial Ombudsman would've likely awarded had it been decided those loans ought to not have been advanced.*

*Instead, this decision will focus on what Mr Lender did when it granted loan seven.*

### **Loan seven**

*There is clearly a gap in lending of nearly 18 months between Mr L repaying loan 5 and when he returned for loan 6. This is, in my view, sufficient to have treated Mr L's application afresh and so loan 6 did become loan 1 of a new lending chain.*

*I've thought about what Mr Lender says about his withdrawal from loan 6 and so loan 7 should be treated as a new lending chain. However, I've not needed to make a finding on this aspect of the complaint because whether I treat loan 7 as the start of a new lending chain (or not) the outcome I'm intending to reach is the same.*

*For this loan, Mr Lender asked Mr L to declare his income and expenditure details and it also carried out a credit search.*

*Mr L declared his income was £2,798 per month and Mr Lender says this income was checked through open banking. It also says that it didn't have access to Mr L's transaction data, only information that had been identified as being wages. Although the results of the check haven't been provided, Mr Lender says that this showed an average income of £2,798 per month.*

*Mr L was asked about his monthly expenditure. This was also checked and Mr Lender used data from the ONS and his credit file to uplift some of the values that Mr L had provided where appropriate. It's worth saying here that the ONS values work as an average based on region, age and homeowner status and so they aren't specific to Mr L. Following the check, Mr Lender assessed the loan on the bases that Mr L's outgoings were £1,371 per month. This left £1,427 per month to afford the loan repayments.*

*Based solely on the income and expenditure information Mr Lender gathered Mr L had enough disposable income to afford the loan repayments.*

*Before the loan was approved Mr Lender also carried out a credit search and it has provided us 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, Mr Lender knew Mr L wasn't insolvent either through an Individual Voluntary Arrangement, bankruptcy or a County Court Judgement within the three years preceding the loan.*

*In addition, it was given information to suggest Mr L didn't have any outstanding "AAI" loans.*

*These are advance against income and so Mr Lender was informed that there were no outstanding payday loans. Overall, the credit checks wouldn't have been enough to have led Mr Lender to conclude that it either needed to do further checks or that it ought to have declined the loan application.*

*The investigator upheld this loan, because in her view, the loan term and value ought to have prompted Mr Lender to have carried out more detailed checks – perhaps by reviewing his bank statements.*

*I've thought about these reasons carefully and I do foresee situations where a large loan, with a term of around a year could lead to a lender having to carry out further checks and it would be entirely possible that those further checks would show the loan to be unaffordable.*

*But I also have to weight this up against, that this was a loan early on in a new chain of lending and even if I count this as the second loan in the chain, Mr L had only been indebted for nearly three weeks, which isn't long enough to have caused Mr Lender any concern. I've also considered the checks Mr Lender carried out which showed the loan to be affordable and the credit checks I've mentioned above also don't show any financial difficulties. There were, no issues, as far as I can see that would've prompted further checks.*

*I am therefore intending to conclude, that Mr Lender carried out proportionate checks for loan 7 and these checks showed it that Mr L had ample disposable income to meet his contractual repayments. Therefore, I am intending to not uphold Mr L's complaint about this loan. I appreciate this will come as a disappointment for Mr L.*

*An outstanding balance will still be due and I would remind Mr Lender of its obligation to treat Mr L fairly and with forbearance – if necessary.*

### **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 no new submissions have been made, I see no reason to depart from the findings I reached in the provisional decision. I still don't think, for the reasons outlined above that Mr Lender made an error when it approved loan 7.

I do think, thought, given what I've seen that Mr Lender's offer, as outlined in the final response letter is a fair and reasonable outcome in order to resolve the complaint. I would also remind Mr Lender to treat Mr L fairly and with forbearance in discussing a way forward to repay the outstanding balance owed for loan 7.

### **Putting things right**

A fair and reasonable outcome for the complaint is for Mr Lender to pay the redress it outlined in the final response letter as well as what is outlined at the start of this decision in relation to loans 4 and 5 only.

### **My final decision**

For the reasons I've explained above and in the provisional decision, I direct PDL Finance Limited to pay the offer it outlined in the final response letter to settle the complaint because this offer is fair in all of the circumstances of the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 7 March 2024.

Robert Walker  
**Ombudsman**