

## The complaint

Miss S complains PDL Finance Limited trading as Mr Lender ("Mr Lender") gave her loans which were unaffordable. Had Mr Lender done better checks it would've realised she had County Court Judgements (CCJs) outstanding and so not lent to her.

## What happened

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

loan number	loan amount	agreement date	repayment date	number monthly instalments	largest repayment per loan
1	£300.00	27/12/2017	20/04/2018	6	£114.00
2	£500.00	20/04/2018	20/11/2018	6	£195.33
3	£500.00	21/11/2018	sold	6	£196.43

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

Following Miss S's complaint about the sale of the loans, Mr Lender wrote to her to explain that it wasn't going to uphold the complaint about the loans because it had carried out proportionate checks.

However, for loan 3, Mr Lender made a goodwill offer to reduce the outstanding balance on the final loan to capital only. By doing so, it would mean that Miss S wouldn't pay any interest. Mr Lender also agreed to remove each of the loans from her credit file.

Unhappy with this offer, Miss S referred the complaint to the Financial Ombudsman.

Mr Lender, as part of its file submission explained the offer was still available to Miss S. She would only be expected to repay the capital she borrowed for loan 3 and then once that loan was repaid it would be removed from her credit file. It also offered to remove loans 1 and 2 from her credit file.

An investigator then considered the complaint, and she didn't uphold it about loans 1 and 2 because in her view Mr Lender had conducted proportionate checks which showed the loans to be affordable. She also said that the credit check results provided to Mr Lender didn't suggest that Miss S had any CCJs recorded against her.

The investigator also explained why, based on the information she had to hand, she wasn't able to uphold the third loan. So, our investigator thought the offer Mr Lender had made was fair and reasonable.

Miss S didn't agree saying that she had been disadvantaged by Mr Lender not carrying out further checks and not finding out that she had at two CCJs at the time. As no agreement has been reached, the case has been passed to me for a 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'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 S 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 S'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 S. These factors include:

- Miss S 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 S 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 S 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 S. The investigator didn't think this applied to Miss S's complaint and I agree, considering the number and value of the loans.

Mr Lender was required to establish whether Miss S 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 S 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 S's complaint.

## Loans 1 and 2

Miss S declared her monthly income was £1,045 for both loans. As these were the first loans, I think it was entirely fair and reasonable on Mr Lender's part to have relied on the information that she provided.

Miss S declared monthly outgoings of £716 for both loans – 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, Miss S had enough disposable income to afford the largest repayment for each loan.

Miss S declared the same income and outgoings for both loans indicating, from an affordability standpoint, that her position was stable and wouldn't have been enough to have prompted further checks from Mr Lender.

Before each loan was approved, Mr Lender 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 Miss S wasn't insolvent either through an Individual Voluntary Arrangement, bankruptcy or a CCJ within the three years preceding each loan.

In addition, Mr Lender was also told that Miss S didn't have any other outstanding "AAI" loans which is another name for payday loans and so there was no indication that Miss S was reliant on this sort of credit.

Miss S says at the time she had outstanding CCJs, and she has provided a screen shot of her credit file showing that she had at least two CCJs at the time, unfortunately, no other information has been provided about them so I can't say when they were granted.

Mr Lender was asked for the raw credit file data that it received. However, Mr Lender says at the time these loans were granted the raw data wasn't retained, and so it now can't be provided.

As I've said above there wasn't a standard of credit search that needed to be conducted and I'm confident in saying that the information Mr Lender received didn't show any CCJs – even though Miss S says this wasn't correct.

But there wasn't anything else in the information Mr Lender received or what Miss S declared to make it think there were CCJs or that she was having financial difficulties. So, I don't think it needed to carry out verification checks into Miss S's circumstances.

Overall, it was reasonable for Mr Lender to have relied on the information Miss S provided about her income and expenditure as well as the credit check results which showed sufficient disposable income to afford the repayments. It therefore follows that I can't uphold Miss S's complaint about these loans.

### **Loan 3**

The same sort of check was carried out for this loan as outlined above, this time Miss S's income was recorded as £1,400 per month with outgoings of £938. This left more than enough disposable income for her to make her largest loan repayment.

Miss S has been able to provide a screen shot of her credit file to show in July 2018 a CCJ was recorded against her – and this was only a matter of months before loan three was granted. So, I am satisfied that at the minimum there was one recently added CCJ.

But again, the credit check summary doesn't show any CCJs being recorded, which is peculiar given I know that one had been recently recorded. I don't know why this CCJ didn't show up in the results Mr Lender received from the credit reference agency but it's clear that it didn't.

As such, although Miss S did have at least 1 CCJ recorded against her, I'm satisfied that Mr Lender wasn't aware of it nor do I think that it needed to do further verification checks in order to make sure there wasn't CCJs. I also don't think it needed to have checked the information given to it by Miss S. She had the opportunity to tell Mr Lender at the point of application.

However, in the final response letter, and as a gesture of goodwill Mr Lender has said that it will remove interest from the outstanding balance so Miss S will only need to repay the capital that she borrowed for her third loan. The redress it has offered is in line with what the Financial Ombudsman Service would've asked Mr Lender to do, had I decided the loan ought to not have been granted.

It's also worth adding that where either a lender or the Financial Ombudsman decides a loan ought not to have been granted, the starting position is that the capital amount borrowed should be repaid because a consumer has used the money that was lent to them. And so, a refund of interest, fees and charges is really only applicable once a consumer has repaid more than the capital which was advanced.

So, as Mr Lender has already made an offer to reduce the outstanding balance due for loan 3 to the original capital amount lent and then to remove the loans from Miss S's credit file (it will remove loan 3 once it has been repaid). Then I've concluded this offer is a fair and reasonable resolution to the complaint and so Mr Lender should pay the offer to Miss S.

### **Putting things right**

Mr Lender should pay the offer that it has already agreed to.

### **My final decision**

PDL Finance Limited trading as Mr Lender has already made an offer to settle the complaint by only collecting the capital for loan 3, deleting the record from Miss S's credit file for loans 1 and 2 and then deleting the record for loan 3 once the loan has been repaid. The offer to settle the complaint is fair in all the circumstances.

So, my decision is that PDL Finance Limited trading as Mr Lender should pay the offer.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 2 April 2024.

Robert Walker  
**Ombudsman**