

The complaint

Ms F complains through a representative that Skyline Direct Limited (“Skyline”) provided her with loans she couldn’t afford to repay, and Skyline would’ve known that if it had carried out proportionate checks.

What happened

A summary of Ms F’s borrowing can be found in the table below.

loan number	loan amount	agreement date	repayment date	Loan duration (weeks)	repayment per loan
1	£400.00	29/11/2017	20/03/2018	20	£28
2	£400.00	20/03/2018	26/06/2018	20	£28
3	£400.00	26/06/2018	06/11/2018	20	£21
4	£400.00	06/11/2018	12/02/2019	20	£28
5	£400.00	12/02/2019	14/05/2019	20	£28
6	£400.00	14/05/2019	13/08/2019	20	£28
7	£400.00	13/08/2019	03/12/2019	20	£28
8	£400.00	03/12/2019	31/03/2020	20	£28
9	£400.00	31/03/2020	18/08/2020	20	£28
10	£400.00	18/08/2020	08/12/2020	20	£28
11	£400.00	08/12/2020	01/04/2021	20	£28
12	£400.00	13/04/2021	16/08/2021	20	£28
13	£400.00	16/08/2021	02/12/2021	20	£28
14	£400.00	02/12/2021	14/04/2022	20	£28
15	£400.00	19/05/2022	17/06/2022	30	£20
16	£400.00	09/09/2022	24/05/2023	30	£20
17	£200.00	20/02/2023	15/09/2023	30	£10
18	£400.00	06/07/2023	15/01/2024	30	£20

The start and end days of the table above have been taken from Skyline’s statement of account.

The weekly repayment for loans 1, 3, 9 and 13 has been estimated based on the other loans of similar amounts and terms due to copies of those credit agreements not being provided.

Skyline has also recently confirmed that loan 3 started in June 2018 rather than September 2018, which is what is highlighted in its final response letter.

Some of the loans overlapped as well, and so where this happened the weekly cost to Ms F would be greater – for example when loans 16 and 17 overlapped Ms F’s weekly repayment was £30.

Skyline considered the complaint it received and didn’t uphold it about the majority of the loans. However, it accepted that further checks were needed for loans 7 – 9 and loan 18 and

so, Skyline upheld the complaint about these loans and made an offer.

Ms F's representative then referred the complaint to the Financial Ombudsman.

The complaint was considered by an investigator, who upheld the complaint about all of the loans. He upheld loan 1 and all future loans because the checks carried out by Skyline showed it that Ms F was using a significant portion of her income towards making the repayment and she was left with too little after making the loan payments. He also said that by loan 6 the lending had become harmful for Ms F due to the repeat nature of the lending.

Skyline didn't agree with the investigator's conclusions and the comments it made didn't change the investigator's mind either. As no agreement could be reached the case was then passed to me. I then proceeded to issue a provisional decision upholding the complaint about loans 7 to 18 which included the loans that Skyline had already agreed to refund.

Both parties were asked for any further submissions as soon as possible, but in any event, no later than 1 November 2024 but we didn't hear from either party.

A copy of the provisional findings follows this in 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 this type of lending - including all the relevant rules, guidance and good industry practice - on our website.

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 have 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. The investigator thought this had been reached in Ms F's complaint by loan 6.

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 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 Ms F's complaint.

Loan 1

Skyline asked Ms F for details of her income, which she declared as being £800 per month. Skyline says the income figure was verified but it hasn't been able to provide any further details beyond that – so I don't know whether it saw a bank statement, a payslip or used a credit reference agency to check the accuracy of what was being declared.

Skyline also says Ms F declared she had total living costs of £600 per month. This left £200 per month in which Ms F could afford her weekly repayment of £28. However, Skyline took it upon themselves to apply a buffer to the figures – this buffer was £15 per week.

Based on Skyline calculations this left just over £31 per week in which Ms F could afford her repayments. The loan did look pounds and pence affordable.

In the investigator's view, the weekly repayment of £28 represented, over the course of the month a significant portion of her income. I have thought about this and I disagree. I don't think in the circumstances that a payment of £28 against Ms F's total income amount of £800 was significant and not enough at this early stage to suggest the loan was unaffordable.

But it could be argued that the payment against the amount Skyline calculated was left over was sufficient. It was Skyline's choice to add a further buffer of £15 per week, but even doing so the loan looked affordable. And if this were to be taken out, then Ms F had £200 per month in which to afford the repayment. I don't think Skyline would've been concerned by this amount.

For a first loan, where Skyline didn't have to add such a buffer its checks indicated that the loan was likely to be affordable for Ms F. Indeed, looking at the repayment history this loan appeared to have been repaid without any difficulties. I accept that Skyline wouldn't have known that when it advanced the loan, but I think it's a good indicator that at least at this point in the lending relationship that there were no underlying problems.

Overall, I'm satisfied a proportionate check was carried out which showed Ms F could afford her repayments. I am therefore intending to not uphold Ms F's complaint about her first loan.

Loan 2

Loan 2 was applied for, and the funds given on the same day that loan 1 was repaid early. So, I think it's fair to say it's highly likely that some of the money advanced from loan 2 went towards repaying loan 1.

The repayment of loan 1 had been satisfactory so there wasn't anything within the repayment history that Skyline was aware of that would've automatically prompted further checks or to have led it to decline this application.

This time, Ms F declared she earned £1,000 per month – again Skyline says this was checked, but the only information in the application form is reference to an identity check. That does mean some sort of verification took place, only Skyline hasn't said exactly what that was.

For her living costs – they were £650. These were broken down as £80 for electric bills, £50 for phone, £250 for food, £70 for transport and £200 for 'other'. Overall, Ms F declared £250 of disposable income with which to afford her repayment.

Again, these checks were proportionate, it was the second loan in the relationship with no obvious repayment problems for loan 1. Overall, Skyline would've been confident that Ms F could afford her repayments.

I am therefore intending to not uphold Ms F's complaint about this loan.

Loan 3

Skyline initially said there was a break between the repayment of loan 2 and when Ms F was advanced loan 3. However, it has recently confirmed that there was no such gap. And, based on the start and end day of the loans and the fact that loan 2 was again settled with a large cash deposit, I think it's likely that some of what was advanced for loan 3 went towards repaying loan 2.

This was now the second occasion that a loan appeared to have been used to settle a previous loan, but I don't think by this point, Skyline could fairly conclude that this was an established pattern.

The same checks were carried out by Skyline before this loan was advanced including asking Ms F about her income and expenditure. These checks again showed Skyline that Ms F could afford her weekly repayments.

Given there were no previous payment problems, and the loan looked affordable, I think it was just about reasonable to conclude these were proportionate checks and this demonstrated the loan was affordable. I am therefore planning to not uphold Ms F's complaint.

Loan 4

Skyline carried out exactly the same checks before this loan was granted as it had done so for the others. This time Ms F declared an income of £1,100 per month and outgoings of £850. Even with the buffer that Skyline applied this loan would've looked affordable.

However, I do think it's likely that some of this loan went towards repaying loan 3, and this was now the third consecutive time this has happened. In addition, Ms F had now been indebted to Skyline for almost a year without any breaks at all. There was a real risk she may have been borrowing the same amount each time, but I do think that ought to have raised a concern because it may have been the case that she was using the loans to plug a long-term shortfall in her living costs.

Skyline, also appears to have accepted what Ms F was saying about her expenditure without checking this further – and it had no idea of whether Ms F had any other credit commitments or the amounts she had declared were accurate.

Taking account of these factors I do think, Skyline ought to have done more before lending to Ms F. There were a number of ways it could've gone about reviewing her financial situation including her expenditure details – it could've asked for copy of her bank statements, copy of her bills, conducted a credit search or gathered any other documentation it felt was necessary. In the circumstances of the complaint, I don't think the checks were proportionate.

However, that doesn't mean that Skyline has done anything wrong when it advanced this loan. Ms F hasn't provided any supporting documentation of her situation at the time this loan was approved, so I can't say that had Skyline carried out further checks it would've led to a different lending decision. As things currently stand, I am intending to not uphold Ms F's complaint.

Loans 5 and 6

A similar situation arose when these loans were granted – the same amount was granted on the same day that the previous loan was repaid. I accept Ms F wasn't borrowing in effect taking any larger loans – they were all for the same amount but the fact that she kept coming back for new lending, of the same amount meant it was not longer reasonable or

proportionate for Skyline to have relied on her declarations about her income and expenditure.

It also didn't have any idea – apart from what Ms F declared about her other credit commitments because no credit check was carried out nor was there any checking of what else she may have outstanding.

So, I'm intending to conclude that further checks were needed before these two loans were granted. However, for the same reasons as I gave for loan 4, I don't know what further checks may have shown Skyline and so I am intending to not uphold her complaint about these loans.

Loans 7 – 9 and loan 18

Skyline in the final response letter has upheld Ms F's complaint about these loans and offered to pay compensation and update the credit file in the manner that the Financial Ombudsman would've asked it to do, had it decided these loans ought to not have been granted.

As Skyline accepts that these loans ought to not have been granted, I've not considered them further but I have included what Skyline has already agreed to do to put things right for Ms F in the redress section at the end of the decision – if this hasn't already been paid.

Loans 10 – 17

For much the same reasons as loans 5 and 6 the checks conducted didn't significantly alter. Skyline continued to ask about her income, and it's provided the documents she provided from loan 10 to support the level of income used for the affordability assessment.

It also seems from loan 10, Skyline was aware she was a council tenant, and she said her bills were up to date. And for these loans credit checks were conducted as well.

However, it still seemed to have relied on the expenditure information she had declared for all of these loans. And by loan 18 she had been almost continuously indebted for five and a half years. Regardless as to whether she had a good repayment history, the number of loans and the length of time that she was borrowing over ought to have been concerning for Skyline. And this was risky, as based on the checks conducted, Skyline doesn't seem to have verified her expenditure or gathered further information as to why there appeared to be a constant need for credit.

I've thought about what Skyline says about these loans being for seasonal purposes, but the majority of the loans have been recorded as being for 'one off' purchase. And they do seem to have been taken around the spring, summer and winter time of each year. Although, towards the end of the relationship, more detailed reasons have been provided, I have to weigh that up against the fact that by then Ms F had been continuously indebted to Skyline for a number of years.

In those circumstances, I can't fairly conclude that the checks conducted by Skyline were proportionate.

Ordinarily, where a firm failed to carry out reasonable and proportionate checks before providing credit, I'd usually go on to recreate reasonable and proportionate checks in order to get an indication of what such checks would more likely than not have shown.

However, I haven't gone on to recreate individual, proportionate checks for these loans because I don't think that it is necessary to do so here. I think this is the case because in addition to assessing the circumstances behind each individual loan arranged for Ms F by Skyline, I also think it is fair and reasonable to look at the overall pattern of lending and what unfolded during the course of Ms F's history with Skyline.

I'm mindful here that the relevant rules and guidance make it clear that a firm shouldn't continue arranging further lending where the loans are unsustainable or otherwise harmful and/or it is apparent that the customer may be experiencing financial difficulties.

I've also considered what Skyline has said about the gaps between later loans, but these aren't long enough in my view to have led Skyline to have thought the first loans after the gaps were the first loans in a new chain of lending – when considering the number of previous loans, the time spent in debt and the apparent continuous need for new credit. And I think that by loan 10, Skyline ought fairly and reasonably to have realised that Ms F's financial position was such that further loans were simply unsustainable for her. I've already set out above why I don't think that Skyline's checks were reasonable and proportionate.

I've also looked at the overall pattern of Skyline's lending history with Ms F, with a view to seeing if there was a point at which Skyline should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so Skyline should have realised that it shouldn't have provided any further loans.

Given the particular circumstances of Ms F's case, I think that this point was reached by loan 10. 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 10 loans in around two and half years. So, Skyline ought to have realised it was more likely than not Ms F was having to borrow further to cover a long-term short fall in her living costs.*
- From the first loan, there had been no significant break in the borrowing relationship between Ms F and Skyline. To me, the constant need for credit is a sign that Ms F was using these loans to fill a long-term gap in her income rather than as a short-term need.*
- Ms F's first loan was for £400 and loan 8 was for more £200 – while smaller all other loans in the lending relationship had been for the same amount. Loan 17 also overlapped with loan 16, and so the capital advanced for these loans was larger than the first loan. At this point Skyline ought to have known that Ms F was not likely borrowing to meet a temporary shortfall in her income but to meet an ongoing need.*
- Ms F wasn't making any real inroads to the amount she owed Skyline. Loan 17 was taken out over five years after Ms F's first loan and was to be repaid over the same term. Ms F had paid large amounts of interest to, in effect, service a debt to Skyline over an extended period.*

I think that Ms F lost out when Skyline provided loans 10 - 17 because:

- the loans had the effect of unfairly prolonging Ms F's indebtedness by allowing her to take expensive credit intended for short-term use over an extended period of time*
- the number of loans and the length of time over which Ms F borrowed was likely to have had negative implications on Ms F's ability to access mainstream credit and so kept her in the market for these high-cost loans.*

Overall, I'm upholding Ms F's complaint about loans 10 – 17 and I've outlined below what Skyline needs to do in order to put things right and I've included the loans Skyline has already accepted shouldn't have granted.

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 there have been no new submissions I see no reason to depart from the findings that I made in the provisional decision. I still don't think that Skyline acted unreasonably when it provided loans 1 to 3.

However, it would've been proportionate to have conducted further checks before approving loans 4 to 6 but no new evidence has been provided to show that Skyline may have seen had it made better checks.

In addition to the loans that Skyline agreed to uphold – 7 to 9 and 18 I also thought the lending was now harmful and unsustainable for Ms F, so in addition to those loans Skyline ought to not have granted loans 10 to 17. I've set out below what Skyline needs to do in order to put things right for Ms F.

Finally, I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for Ms F in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right

In deciding what redress Skyline should fairly pay in this case I've thought about what might have happened had it stopped lending to Ms F at loan 7, 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.

In addition to the redress Skyline has already offered on loans 7 to 9 and loan 18 Skyline also shouldn't have given Ms F loans 10 to 17.

- A. Skyline should add together the total of the repayments made by Ms F towards interest, fees and charges on all upheld loans.
- B. To this it 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 pay Ms F the total of A plus B.
- D. The overall pattern of Ms F's borrowing for loans 10 to 17 means any information recorded about them is adverse, so Skyline should remove these loans entirely from Ms F's credit file. It should also remove loans 7 to 9 and loan 18 as it had agreed to do in the final response letter.

*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 for Ms F as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 4 December 2024.

Robert Walker
Ombudsman