

complaint

Mr E complains that PDL Finance Limited (trading as Mr Lender) gave him loans that he couldn't afford to repay.

background

The background to this complaint was set out in the provisional decision I issued in September 2018. An extract from this is attached and forms part of this final decision, so I will not repeat that information here.

In my provisional decision I set out why I was minded to uphold part of the complaint. I invited both parties to let me have any further comments and evidence. Both Mr E and Mr Lender have told us that they have nothing further to add.

my findings

I've once more considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Given that neither Mr E nor Mr Lender have provided me with any comments or further evidence I see no reason to depart from the conclusions that I reached in my provisional decision.

If Mr Lender had done what I consider to be proportionate checks before loans 2 and 3 it would have seen that Mr E had little, or no, disposable income each month that he could use to repay its lending. So, as a responsible lender, it would have declined these loan requests. Mr Lender needs to pay Mr E some compensation.

putting things right

I don't think Mr Lender should have agreed to lend to Mr E after, and including, the loan he took on 10 February 2014 (loan 2). So for each of those loans Mr Lender should;

- Refund any interest, fees and charges applied to the loans.
- Add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement*.
- Remove any adverse information recorded on Mr E's credit file in relation to the loans.

*HM Revenue & Customs requires Mr Lender to take off tax from this interest. Mr Lender must give Mr E a certificate showing how much tax it's taken off if he asks for one.

my final decision

My final decision is that I partly uphold Mr E's complaint and direct PDL Finance Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 29 November 2018.

Paul Reilly
ombudsman

EXTRACT FROM PROVISIONAL DECISION**complaint**

Mr E complains that PDL Finance Limited (trading as Mr Lender) gave him loans that he couldn't afford to repay.

background

Mr E was given three loans by Mr Lender between August 2013 and March 2014. On a couple of the loans Mr E wasn't able to make his repayments as originally agreed. So he rolled those loans over on five separate occasions by paying some additional interest. But each of his loans has now been fully repaid. A summary of Mr E's borrowing from Mr Lender is as follows;

Loan Number	Borrowing Date	Repayment Date	Loan Amount
1	13/08/2013	30/10/2013	£ 400
2	10/02/2014	27/02/2014	£ 700
3	30/03/2014	22/07/2014	£ 700

Mr E's complaint has been assessed by one of our adjudicators. She didn't think the checks Mr Lender had done before agreeing any of the loans had been sufficient. And she thought that better checks would have shown Mr Lender that Mr E couldn't afford to repay the loans. So she asked Mr Lender to pay Mr E some compensation.

Mr Lender didn't agree with that assessment and provided us with some further information about the checks it had done before lending to Mr E. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

Mr Lender was required to lend responsibly. It needed to make checks to see whether Mr E could afford to pay back each loan before it lent to him. Those checks needed to be proportionate to things such as the amount Mr E was borrowing, and his lending history, but there was no set list of checks Mr Lender had to do.

Mr Lender has told us about the checks it did before lending to Mr E. Before each loan it asked him for details of his employment, his income and his normal expenditure. And it checked Mr E's credit file too. Although I've not seen all the results from those credit checks I'm not aware of any adverse information on Mr E's credit record at the time that I think should have caused additional concerns to the lender.

Mr E told Mr Lender that he earned around £2,100 each month and that his expenditure was £1,070. So that means he had told Mr Lender that he had £1,030 left over each month that he could use to repay his lending. The repayment he needed to make on his first loan was £540. Given the size of that repayment compared to Mr E's income, and that this was his first loan request, I think it was reasonable for Mr Lender to base its affordability assessment on the information Mr E provided. And that suggested the loan was affordable. So I don't think Mr Lender was wrong to give this loan to Mr E.

Mr E needed to rollover his first loan on a couple of occasions and so repaid it two months later than originally planned. Just over three months later he asked Mr Lender for another loan. And the amount he asked to borrow was almost double what he'd borrowed before. His repayment on this loan would be over £900. That was almost half of his normal income and so I think Mr Lender should have been very concerned about his ability to sustainably afford the loan. I don't think it was reasonable here for Mr Lender to rely just on information provided by Mr E. I think Mr Lender should have taken steps to independently verify the true state of Mr E's finances.

Mr E's second loan was paid off in full just a couple of weeks after he'd taken it. That might have seemed strange to the lender. And around a month later he asked for another, similarly large, loan. He once more asked to borrow £700, needing to repay over £900 the following month. So once more I think Mr Lender should have taken steps to independently check Mr E's financial position.

But although I don't think the checks Mr Lender did before agreeing loans 2 and 3 were sufficient, that in itself doesn't mean that Mr E's complaint should succeed. I'd also need to be persuaded that what I consider to be proportionate checks would have shown Mr Lender that Mr E couldn't sustainably afford the loans. So I've looked at Mr E's bank statements, and what he's told us about his financial situation, to see what better checks would have shown Mr Lender.

Throughout the time he was borrowing from Mr Lender I can see that Mr E transferred a sum of money each month to a joint account he held with his wife. That was his contribution to some of the household bills and their mortgage. At the time of the second and third loans he transferred just over £800 each month. And Mr E was also paying some other bills directly from his own account such as insurance and mobile telephone costs, as well as food and transport costs. All in all, these costs amounted to around £1,100 each month at the time of these loans. And Mr E was also paying a significant amount each month repaying other long term credit commitments – these repayments added up to just under £900 each month.

If Mr Lender had checked into Mr E's finances in more detail, as I think it should have done before loans 2 and 3, it would have seen that, as well as the above expenditure, Mr E was gambling heavily. And he was using several other short term lenders to support his gambling as well as contributing towards his day to day living costs. At the time he took his second loan Mr E owed more to other short term lenders than the income he'd declared – loans he'd need to repay around the same time as any new borrowing from Mr Lender.

So if Mr Lender had done what I consider to be proportionate checks before loans 2 and 3 it would have seen that Mr E had little, or no, disposable income each month that he could use to repay its lending. So, as a responsible lender, it would have declined these loan requests. Mr Lender needs to pay Mr E some compensation.