

complaint

Mr K has complained about short-term loans granted to him by PDL Finance Limited trading as Mr Lender ("Mr Lender" or "the lender").

background

Mr Lender agreed five short-term loans for Mr K between February and December 2012. Mr K says Mr Lender should not have lent to him because he could not afford to meet his repayments.

One of our adjudicators has looked into Mr K's complaint already. She recommended that it be upheld and that Mr Lender refunds the charges Mr K paid for the last four of his five loans. Mr Lender did not agree with this recommendation and so the complaint has come to an ombudsman for a final decision.

my findings

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

Mr Lender was required to lend responsibly. It needed to check that Mr K could afford to repay his loans sustainably. There was no set list of checks it needed to do, but the checks should have been proportionate to the circumstances of each loan which might include considerations about the amount borrowed, Mr K's borrowing history and so on.

In making this decision I have considered whether or not Mr Lender did everything it should have when assessing Mr K's loan applications. And following on from this, whether any assessment failings resulted in Mr Lender agreeing to lend to Mr K when it should reasonably have known that he would find it difficult to repay. I have concluded, as our adjudicator did, that Mr Lender should not have lent to Mr K beyond his first loan. I appreciate this will be disappointing for Mr Lender, but I hope my explanation makes it clear why I have come to this conclusion.

Mr Lender says that it asked Mr K about his income and checked his credit file with a credit reference agency (CRA) each time he applied for a loan. It says there was nothing in his file which caused it concern and that Mr K's credit score increased over the period in question. Mr Lender also says that there was no obligation on it to carry out particular checks and that it was up to Mr K to decide whether or not he could meet the loan repayments.

Firstly, I don't know what the CRA results might have shown as Mr Lender hasn't provided these. And how Mr Lender judged this score was up to it - different lenders might judge the same score differently depending on their internal lending criteria. As I noted above, the regulations at the time, and indeed currently, are not prescriptive about what checks a lender should carry out. However, the regulations did, and do, require Mr Lender to carry out proportionate checks to ensure that Mr K was able to repay his loans in a sustainable manner i.e. through using his normal means. Mr Lender says that Mr K repaid his loans on time with no late payments. However, managing to successfully repay credit is not the same thing as being able to *sustainably* repay it.

Mr K borrowed £450 from Mr Lender in February 2012. The lender says that Mr K's recorded monthly income was just over £2,000. Given the amount Mr K borrowed relative to his

income and the fact this was Mr K's first loan, I think the checks the lender says it carried out were proportionate in this case.

I understand that Mr K was unable to, or chose not to, repay the full loan amount and extended or 'rolled over' his loan on three occasions. When Mr K repaid this first loan in May, he took out another loan for £500 on the same day. Mr Lender says that it does not consider the use of rollovers as an indicator of financial difficulty. I disagree, however, and think that Mr K's rolling over of his loan several times may have been an indication that he was not able to repay it from his normal means. And this, combined with his application for another loan when he'd just repaid his first, should have alerted Mr Lender to the possibility that Mr K might not be able to sustainably repay further borrowing. And doing more to check this would have been a proportionate response. Mr Lender could have enquired about Mr K's expenditure, for example, or asked to see his bank statements.

Mr K went on to borrow a further three times from Mr Lender - £200 in October, then £150 in November and £550 in December, the same day he repaid his previous loan. Again, I think that Mr K's borrowing history (and his use of rollovers) should have prompted Mr Lender to do more to check if Mr K could afford these loans.

Mr K has provided this service with his bank statements covering the period in question. I can see from these that in the months preceding Mr K's second loan his expenditure exceeded his income due to his existing credit commitments, including those to other short-term lenders. And it seems he regularly spent large amounts on what appears to be gambling. His financial situation didn't improve throughout the time he borrowed from Mr Lender. And, had Mr Lender carried out what I consider to be proportionate checks, it would have learnt this and would not have lent to Mr K beyond his first loan.

what Mr Lender should do to put things right

In summary, I've concluded that Mr Lender should have done more to check that Mr K could sustainably repay its loans from the time he applied for his second loan. Had it done so, it would not have agreed to further credit. So I think Mr Lender needs to refund all of the interest and charges Mr K paid for later loans. Specifically, it should:

- refund the interest and charges for the loans it agreed for Mr K in May, October, November and December 2012.
- pay interest on these refunds at 8% simple from the dates of payment to the dates of settlement.
- remove any adverse information about these loans from Mr K's credit file.

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

my final decision

For the reasons set out above, I uphold this complaint and direct by PDL Finance Limited (trading as Mr Lender) to refund Mr K as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 27 February 2017.

Michelle Boundy
ombudsman