Financial Ombudsman Service

complaint

Mr G complains that PDL Finance Limited, trading as Mr Lender, lent to him in an irresponsible manner.

background

Mr G took out three instalment loans with Mr Lender in February and March 2018. Loans one and two were repayable over three instalments. Mr G repaid those loans soon after he took them out and paid only small sums in interest on those loans.

Loan three was repayable over six instalments. Mr G told Mr Lender that he was in financial difficulty and Mr Lender agreed a repayment plan. Mr G repaid £3 in relation to loan three so there's a remaining balance outstanding on that loan. A summary of Mr G's lending with Mr Lender is as follows:

	date	£ amount	date repaid
1	20 February 2018	200	22 February 2018
2	20 March 2018	250	23 March 2018
3	26 March 2018	750	outstanding

In response to Mr G's complaint, Mr Lender said that it could have conducted further checks in relation to Mr G's employment. It offered to reduce the outstanding balance on loan three from £1,497 to £747 and to set up a repayment plan. Mr G didn't accept that and pursued his complaint.

Mr G says that his job was made redundant in September 2017 and he's been out of work since then. He says that Mr Lender didn't carry out suitable checks and didn't ask him for bank statements. Mr G says that a quick google search of the job he said he had would have shown that it didn't exist, so Mr Lender should have known that he didn't have an income. He says that he was gambling heavily at the time.

Mr G also complains about how Mr Lender responded to his complaint. He wants it to write off the debt completely and change its procedures.

One of our adjudicators assessed Mr G's complaint. She didn't think that Mr Lender should have given Mr G loan three. She set out what she thought Mr Lender should do to put matters right.

After some exchanges of e-mails with the adjudicator, Mr Lender accepted her recommendation. Mr G didn't agree with the adjudicator's assessment. He said that Mr Lender should write off the debt, as he's not in a position to repay it, even with a repayment plan. Mr G says that Mr Lender loaned him a large sum whilst we was vulnerable. He says that he gambled the money away. Mr G says that Mr Lender should have known about his problems.

As there was no agreement between the parties, the complaint was passed to me, an ombudsman, to decide.

my findings

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

The powers of the Financial Ombudsman Service don't include complaint handling. So, I can't consider the part of Mr G's complaint about how Mr Lender dealt with his complaint. Also, this service isn't the regulator, so I can't direct Mr Lender generally about how it conducts its business. I realise Mr G will be disappointed by this but I can't act outside my legal powers.

I can look at Mr G's complaint that Mr Lender lent to him in an irresponsible manner. We've set out our general approach to complaints about short-term lending - including all of the relevant rules, guidance and good industry practice - on our website.

Mr Lender needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice, this means that it should have carried out proportionate checks to make sure Mr G could repay the loans in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Mr Lender should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a customer's 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 *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

Mr Lender was required to establish whether Mr G could sustainably repay his loans – not just whether the loan payments were affordable on a strict pounds and pence calculation. Of course, the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the Consumer Credit Sourcebook ("CONC") defines sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr G's complaint.

I don't think that Mr Lender was wrong to give Mr G loans one and two. Given the repayment amounts, what was apparent about Mr G's circumstances at the time and his history with the lender at that point, I don't think it would've been proportionate for Mr Lender to ask Mr G for the amount of information needed to show the lending was unsustainable. There wasn't anything in the information Mr G provided or the information Mr Lender should've been aware of, which meant it would've been proportionate for it to start verifying what Mr G said. I think that Mr Lender was entitled to rely on what Mr G said at this point.

In relation to loan three, Mr Lender says that it could have conducted further checks on Mr G's employment. It's made an offer in relation to loan three. I think Mr Lender's offer to reduce the outstanding balance on loan three from £1,497 to £747 is fair. That offer reduces the balance to the amount of capital Mr G borrowed originally, less the small sum Mr G has already repaid. Mr Lender has also offered to agree a repayment plan.

Mr G wants Mr Lender to write off the capital he owes. I don't think that would lead to a fair outcome here. Mr G had the use and benefit of the money he borrowed. I appreciate that Mr G now considers that he didn't benefit from the money. I'm afraid I don't agree but I appreciate that Mr G no doubt wishes that he hadn't spent it on gambling. Considering everything, I don't think that there are any grounds on which to direct Mr Lender to write off the capital Mr G borrowed for loan three.

In addition to its offer I've referred to above, Mr Lender has now agreed to remove adverse information about loan three from Mr G's credit file.

putting things right – what Mr Lender needs to do

- reduce the balance outstanding on loan three to £747 and agree a repayment plan with Mr G, which it has already offered to do.
- remove any negative information about loan three from Mr G's credit file;

my final decision

For the reasons given above, I'm upholding Mr G's complaint in part. PDL Finance Limited, trading as Mr Lender, should take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 28 March 2020.

Louise Povey
ombudsman