

The complaint

Miss H complains PDL Finance Limited trading as Mr Lender (“Mr Lender”) gave her loans she couldn’t afford to repay because she had other loans with other companies at the time.

What happened

Miss H was advanced two loans from Mr Lender and a summary of her borrowing can be found in the table below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	highest repayment per loan
1	£750.00	01/12/2014	13/02/2015	6	£387.50
gap in lending					
2	£500.00	30/12/2015	30/04/2016	5	£220.00

Following Miss H’s complaint Mr Lender wrote to her to explain why it wasn’t going to uphold it. But as a gesture of goodwill, Mr Lender offered to remove these loans from Miss H’s credit file.

Unhappy with this offer, Miss H referred the complaint to the Financial Ombudsman. An adjudicator then considered the complaint and in her latest assessment she partly upheld it. The adjudicator said the largest repayment due for loan one represented a significant portion of her declared income and therefore the lending was unsustainable for her. The adjudicator didn’t uphold the complaint about loan two.

Mr Lender didn’t agree with the proposed outcome for loan one and it has sent a number of emails with its reasons. I’ve summarised these below:

- Although it has the details of what Miss H declared for the first loan, it doesn’t know how the expenditure was broken down into the various categories.
- The credit check results showed zero outstanding payday loans with other lenders.
- Miss H had sufficient disposable income to afford the repayments for the loan and the loan was structured in a way where each months’ contracted payments decreased.
- Miss H ended up repaying Mr Lender significantly less in interest than she was contracted to pay due to repaying the loan earlier than planned.
- The checks Mr Lender carried out were proportionate.

As no agreement was reached, the case was passed to me to resolve. I then issued my provisional decision explaining the reasons why I was intending to not uphold Miss H’s complaint – but Mr Lender needed to do what it had agreed to do in the final response letter.

Both parties were asked to provide any further submissions as soon as possible but, in any event, no later than 27 July 2023.

Mr Lender responded to say it had nothing further to add.

Miss H hasn't responded to the provisional decision.

The deadline for the response has now passed and so to bring this matter to a close, I've proceeded to issue the final decision. 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. And I've used that to help me decide this complaint.

Mr Lender had to assess the lending to check if Miss H 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 H'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 H. These factors include:

- *Miss H 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 H 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 H 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 H. The adjudicator didn't think this applied to Miss H's complaint.

Mr Lender was required to establish whether Miss H 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 H was able to repay her loans sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that payments are sustainable if they are made without undue difficulties and in particular, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Miss H's complaint.

Loan 1

For this loan, Miss H told Mr Lender her monthly income was £1,300. Miss H also declared monthly outgoings of £560. This figure would've likely have been broken down across a

number of different categories. But Mr Lender has explained it can't provide a breakdown of how the figure was arrived at.

I can see Miss H has provided a copy of a wage slip from her employer from November 2014, and this shows her income was just under £1,100 per month. So slightly less than what she declared to Mr Lender at the time. But as this was the first loan and there was no indication in any of the checks that the amount declared to Mr Lender was in some way inaccurate, I think it was entirely reasonable for Mr Lender to have relied on the amount Miss H had declared to it.

Mr Lender believed, based on the information Miss H provided, she had around £740 per month in disposable income to afford the monthly loan repayment of no more than £387.50. Therefore, it would've been reasonable for Mr Lender to believe this loan was affordable for Miss H.

Before the loan was approved Mr Lender also carried out a credit search 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.

Miss H has provided a copy of her credit report which was produced in February 2020. But as Mr Lender carried out a credit search, it was and is entitled to rely on the information it was given so while I appreciate that Miss H has provided the information, in this case, I am going to rely on what Mr Lender received from the credit reference agency.

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 H wasn't insolvent either through an Individual Voluntary Arrangement (IVA), bankruptcy or a County Court Judgement (CCJ) within the three years preceding the loan. In addition, it was given information to suggest that Miss H had zero outstanding payday loans.

Overall, there were no signs, from the credit check results which indicated Miss H was in financial difficulties, was having problems managing her existing credit commitments or had unsustainable levels of debt.

I've also thought about the reasons why the adjudicator upheld this loan, that being the largest repayment represented a significant portion of her income. And I can understand why she concluded that, after all, the first monthly repayment of around £387 represented nearly 30% of Miss H's declared income. And had that been the level of repayment each month for six months then I can foresee a situation where I'd have agreed with the adjudicator and upheld the loan.

But the way the loan was structured meant that Miss H was repaying a smaller amount each month for the loan. By the time Miss H's final repayment was due the percentage of her income needed to make the repayment was around 13%. A significant decrease compared to her first contractual payment.

Thinking about how the loan payments decreased over the term, the fact that this was a first loan and the checks Mr Lender carried out, which were in my view proportionate and showed the payments to be affordable. Given these reasons, I am intending to not uphold Miss H's complaint about this loan.

Loan 2

Before I look at what happened when this loan was advanced, there was a significant break between Miss H repaying loan one and returning for loan two. This means, for the purposes of a proportionate check, I think it would be reasonable for Mr Lender to treat Miss H's application afresh and essentially as if she was a new customer. So, although this was loan two, it was the first loan in a new lending chain.

For this loan, Miss H told Mr Lender her monthly income was £1,300. Miss H also declared monthly outgoings of £700 across a number of different categories such as rent, food, credit commitments and other regular outgoings to name a few.

Mr Lender believed, based on the information Miss H provided, she had around £600 per month in disposable income to afford the loan repayment of no more than £220. Therefore, it would've been reasonable for Mr Lender to believe this loan was affordable for Miss H.

Before the loan was approved Mr Lender also carried out a credit search and it has provided the Financial Ombudsman with a summary of the results it received. 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 H wasn't insolvent and didn't have any active payday loans. There were no signs, from the credit check results to indicate Miss H was in financial difficulties, was having problems managing her existing credit commitments or had unsustainable levels of debt.

Given it was early on in a new lending relationship – I think it was reasonable for Mr Lender to have relied on the information Miss H provided to it – which showed she had sufficient disposable income to afford the repayments. There also wasn't anything else to suggest that Miss H was having either financial difficulties or that the loan repayments would be unsustainable for her for some other reason.

I'm therefore not upholding Miss H's complaint about this loan as well.

In Mr Lenders final response letter, it has offered to remove these loans from Miss H's credit file. It's possible, that given the age of each loan that these have already dropped off her credit file. But in any event, the offer Mr Lender made in the final response letter is fair and reasonable and if it hasn't already done so, it should arrange to remove these loans from the credit file, once the final decision has been issued.

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 neither party has provided any new submissions for my consideration, I see no reason to depart from the findings that I made in the provisional decision. I still think Mr Lender carried out proportionate checks before it approved the loans which demonstrated Miss H could afford them.

In saying that, Mr Lender has made a goodwill offer to remove these loans from Miss H's credit file, and so, if it hasn't already done so it should arrange for this to happen.

My final decision

For the reasons I've explained above and in the provisional decision, I'm not upholding Miss H's complaint.

But PDL Finance Limited should, do what it has already agreed to do to put things right for Miss H.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 28 August 2023.

Robert Walker
Ombudsman