

## The complaint

Miss W complains PDL Finance Limited trading as Mr Lender (“Mr Lender”) irresponsibly lent to her.

## What happened

A summary of her borrowing can be found below.

loan number	loan amount	agreement date	repayment date	number instalments	highest repayment per loan
1	£200.00	03/08/2022	24/11/2022	3	£100.26
2	£500.00	20/01/2023	outstanding	12	£120.41

Each loan was structured so that each payment subsequent from the first decreased in value through the life of the loan.

Following Miss W’s complaint Mr Lender wrote to her in April 2023 to explain it wasn’t going to uphold her complaint about irresponsible lending because it had carried out proportionate checks. The final response also said Miss W’s “*account is currently on hold*”. Unhappy with this response, Miss W referred the complaint to the Financial Ombudsman.

An adjudicator then considered the complaint, and she didn’t uphold it because she said Mr Lender had carried out proportionate checks which showed each loan was affordable.

She also said that Miss W had made a number of other points including the way in which Mr Lender contacted her and not being able to log into her online portal. But she couldn’t consider these points because Mr Lender wanted an opportunity to investigate those matters first – so she directed Miss W to contact Mr Lender to take those complaint points forward.

Miss W didn’t agree saying she was only concerned about the second loan because at the time she applied for it she wasn’t working full time and Mr Lender should’ve asked for up to date details of her income. She also said at the same time when was paying Mr Lender she had another outstanding loan. Finally, Miss W also provided copy bank statements and a copy of her credit file.

As no agreement could be reached, the case has been passed to me to resolve.

## 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.

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 W 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 W'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 W. These factors include:

- Miss W 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 W 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 W 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 W. The adjudicator didn't think this applied to Miss W's complaint because there were only two loans and I agree.

Mr Lender was required to establish whether Miss W 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 W was able to repay her 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 Miss W's complaint.

Firstly, I want to reiterate what the adjudicator said in her assessment and in her emails to Miss W after the assessment. Mr Lender has requested, as it is entitled to, time to investigate Miss W's concerns about how she was treated while her complaint was being investigated and her not being able to access her account.

If Miss W hasn't already done so, she may wish to contact Mr Lender to raise these concerns directly with it. I will not be commenting on any additional complaint points – this decision solely focuses on whether Mr Lender did all it ought to have done before it advanced her final loan as this is the one Miss W has concerns about.

For loan 2, Mr Lender asked Miss W to declare her income and expenditure details and it also carried out a credit search. Having thought about these checks I'm satisfied they were proportionate, and the checks showed the loan to be potentially affordable. I've explained why below.

Miss W declared her monthly income to be £2,064 when loan 2 was advanced and this was checked with a credit reference agency for its accuracy. Miss W also declared monthly outgoings of £1,724. Miss W therefore declared a sufficient amount of disposable income for this loan to enable Mr Lender to reasonably believe she could afford the repayments she was committed to making.

For loan 2, Mr Lender's affordability assessment of the amount of income and expenditure differed from the information it gathered at loan 1. This would suggest that different amounts were provided by Miss W and / or it made different adjustments to these figures following the further checks that I will mention below.

Miss W has said at the time this loan was granted she was working part time and only 8 hours per week – her situation had materially changed since loan 1 because at that time Miss W said she was working full time. However, that information wasn't reflected in what it appears she told Mr Lender when she applied for loan 2, and it also doesn't appear to have been reflected in the results of the checks that Mr Lender conducted.

So, Mr Lender didn't know that she wasn't working full time and importantly, at this point in the lending relationship, I think it was reasonable for it to have relied on what Miss W declared without the need to ask for evidence of her income such as through a payslip or by using her copy bank statements. It was reasonable for Mr Lender to have relied on the income figure I mentioned above.

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.

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 or to raise any concerns. It knew Miss W wasn't insolvent either through an Individual Voluntary Arrangement, bankruptcy or a County Court Judgement within the three years preceding the loan.

In addition, it was given information to suggest Miss W didn't have any other outstanding payday loans when it granted loan 2. Again, Mr Lender could only make its decision based on the information provided and it hadn't yet reached the point in the relationship where Mr Lender needed to check this any further.

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

I appreciate Miss W has provided copy bank statements, but for her second loan where the checks carried out were proportionate and showed she could afford the repayments I don't think Mr Lender needed to view or check her bank statements. To do so, would've been disproportionate to the circumstances.

Overall, proportionate checks were conducted by Mr Lender before loan 2 was approved which showed Miss W could potentially afford the repayments and I'm satisfied it was entitled to rely on the information Miss W declared about her income and expenditure. There also wasn't anything else to suggest the loan was either unaffordable or unsustainable for her.

So, I don't think Mr Lender did anything wrong when it approved the loan for Miss W and it therefore follows, I'm not upholding Miss W's complaint.

### **My final decision**

For the reasons I've outlined above, I am not upholding Miss W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept

or reject my decision before 28 December 2023.

Robert Walker  
**Ombudsman**