

The complaint

Mrs I, through her representative, complains that Skyline Direct Limited lent to her when she could not afford it.

What happened

Mrs I completed her complaint form herself in which she has given details that she has taken loans with Skyline for 9 years. She thinks she's had loans with them since 2014.

Skyline when it responded in September 2023 to her complaint made in August 2023 provided a loan table and some brief details. Its records of the loans only go back six years to 2017 so the first loan in its records it has labelled as loan 1 in the table below.

It has said it would look at any loans earlier than 2017 if Mrs I can establish the details of them. We asked her to do this. But neither Mrs I nor her representative have come back to us with additional loan details and so I am proceeding on the information I have.

These are the loans I am considering as part of this complaint as I have no other details on any others. All the loans were for 30 weeks in duration and to be repaid weekly by home collection or by direct debit or Continuous payment authority (CPA).

| Loan | Issued | Principal Sum (interest to repay) | Repaid date | Weekly disposable income |
|------|------------------|--------------------------------------|------------------|--------------------------|
| 1 | 6 December 2017 | £600 (£300) | 16 May 2018 | £55.38 |
| 2 | 16 May 2018 | £600 (£300) | 12 December 2018 | £18.46 |
| 3 | 19 December 2018 | £700 (£350) | 7 August 2019 | £23.08 |
| 4 | 28 August 2019 | £700 (£350) | 29 January 2020 | £66.92 |
| 5 | 29 January 2020 | £800 (£400) | 2 September 2020 | £31.15 |
| 6 | 9 September 2020 | £800 (£400) = £40 each week | 14 April 2021 | £73.56 |
| 7 | 14 April 2021 | £800 (£400) = £40 each week | Outstanding | £72.82 |

There were some small gaps between some of the loans but nothing which is significant. I consider this to have been one loan chain and one lending relationship.

The outstanding balance on loan 7 was £605 when we were last informed.

The weekly disposable income figures have been provided by Skyline in its submissions to us in January 2024 which are figures it explained '*after expenditure and credit commitment deductions including the loan weekly repayment.*'

Skyline had already explained to us in its final response letter (FRL) that it factored in a £15 margin or '*buffer*' to allow for unexpected costs for loans 1 and 2 and at a rate of £25 a week for the other loans.

In its FRL Skyline explained all it had done before lending to Mrs I and it did think that additional checks ought to have been done at loan 5 due to the '*level of credit*' and by that it likely meant that the loan total cost had gone over £1,000 - total to repay on loan 5 was £1,200. So, it upheld the complaint in relation to that loan only. It said it would refund her the interest plus 8% interest and it would remove the loan from her credit file. It did indicate it would remove the outstanding balance from the redress it planned to refund. Later this offer was increased to include a write-off of an outstanding sum. And more recently It has also conceded on loan 4.

Mrs I rejected the FRL and its offer through her representative as she considered that having paid the interest she has for nine years then she'd at least like a full refund of all that interest. Her calculation is that the interest due would be about £2,500.

Mrs I's complaint was referred to the Financial Ombudsman Service and one of our investigators looked at it all. He considered that there was evidence of repetitive lending and that Skyline ought to have ceased lending to Mrs I at loan 4.

Mrs I's representative has not responded to that view and Skyline has given reasons as to why it disagrees with our investigator's view.

The unresolved complaint was passed to me to decide.

Having reviewed the complaint, I asked for some more details from both parties. Mrs I and her representative have not replied. Skyline has reviewed the complaint and decided to agree to an uphold for loan 4 as well as loan 5 but continued to dispute loans 6 and 7.

Plus, Skyline has sent to me additional information surrounding the income and expenditure figures it obtained about Mrs I before lending loans 6 and 7 and a detail about a defaulted account.

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 high cost, short-term and home credit lending - including all the relevant rules, guidance, and good industry practice - on our website.

Skyline had to assess the lending to check if Mrs I 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.

Skyline's checks could have considered a number of different things, such as how much was being lent, the size of the repayments, and Mrs I's income and expenditure.

I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Skyline should have done more to establish that any lending was sustainable for Mrs I. These factors include:

- Mrs I 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);
- Mrs I 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);
- Mrs I 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 Mrs I. Our investigator considered this to be the case for Mrs I.

Skyline was required to establish whether Mrs I 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 Mrs I 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 Mrs I's complaint.

Mrs I didn't disagree with our adjudicator's opinion about loans 1 to 3. Skyline has accepted that loans 4 and 5 ought not to have been approved for Mrs I. Because of this I don't think there is any ongoing disagreement about these loans. So, I won't be making a decision about this lending. But they were part of the borrowing relationship Mrs I had with Skyline. So, they are something I have taken into account when considering the other loans she took.

Skyline has said it verified Mrs I's income for loans 6 and 7. It's sent me photos of letters Mrs I must have given its agent when she applied for the loans. These reveal that Mrs I was on benefits which includes a supplement for '*limited capability for work*' and she was receiving Personal Independence Payments (PIPs) as well. These amounted to around £210 weekly – it varied a little depending on whether it was 2020 or 2021 but not by much.

It's unlikely that this income was going to increase as Mrs I relied on the benefits – she was not in a job where a promotion or a new job likely might bring her a salary increase.

I think that by loan 6 Skyline ought to have realised that Mrs I was filling a hole left by the repayments for the earlier loans. And the repetitive nature of the lending was otherwise unsustainable. I say this because she had been indebted to Skyline for almost three years. This was a reasonably long time to be using high cost credit. But at loan 6 Mrs I was making a commitment to make repayments for a further 30 weeks at £40 a week.

I haven't recreated individual, proportionate affordability checks for loans 6 and 7 because I don't think that it is necessary to do so. I've looked at the overall pattern of Skyline's lending history with Mrs I, with a view to seeing if there was a point at which Skyline should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so, Skyline should have realised that it shouldn't have provided any further loans.

Given the circumstances of Mrs I case, I think that this point was reached by loan 6. I say this because:

- At this point Mrs I had been indebted to Skyline for almost three years.
- Mrs I's first loan was for £600 and loan 6 was for £800. So, the amount Mrs I was borrowing had increased as well as her being indebted to Skyline for a significant time. Mrs I had paid large amounts of interest to, in effect, service a debt to Skyline over an extended period. Mrs I wasn't making any real inroads to the amount she owed Skyline.
- At this point – loan 6 – Skyline ought to have known that Mrs I was likely borrowing to meet an ongoing and increasing need. And this indicates her problems may have been worsening.
- From loan 6 onwards Mrs I was provided with a new loan a very short time after she settled her previous loan and Mrs I has described how the agent used to persuade her to take on a new loan to clear old debts.

- So, because of these factors, Skyline ought to have realised it was more likely than not Mrs I's indebtedness was unsustainable.

I appreciate that Skyline feels that the checks it did were enough to show the lending may have been affordable on a 'pounds and pence' calculation. But I think the lending pattern itself shows the loans weren't sustainable.

I think that Mrs I lost out because Skyline continued to provide borrowing from loan 6 onwards because:

- these loans had the effect of unfairly prolonging Mrs I's indebtedness by allowing her to take expensive credit over an extended period.
- the length of time over which Mrs I borrowed was likely to have had negative implications on Mrs I's ability to access mainstream credit and so kept her in the market for these high-cost loans.

So, overall, I endorse the uphold for loans 4 and 5 and I'm also upholding the complaint about loans 6 and 7 and Skyline should put things right for Mrs I.

Putting things right

Skyline has agreed to put things right for Mrs I for loans 4 and 5. I've included those loans into the redress directions for completeness. It is entitled to use the refund to set off against any funds Mrs I may owe to Skyline.

In deciding what redress Skyline should fairly pay in this case I've thought about what might have happened had it stopped lending to Mrs I from loan 6, as I'm satisfied it ought to have.

Clearly there are a great many possible, and all hypothetical, answers to that question. For example, having been declined this lending Mrs I may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between her and Skyline which they may not have had with others. If this wasn't a viable option, they may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, they may have decided to approach a third-party Skyline with the same application, or indeed a different application (i.e., for more or less borrowing). But even if they had done that, the information that would have been available to such a Skyline and how they would (or ought to have) treated an application which may or may not have been the same is impossible to reconstruct now accurately. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new Skyline would have been able to lend to Mrs I in a compliant way at this time.

Having thought about all these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Mrs I would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Skyline's liability in this case for what I'm satisfied it has done wrong and should put right.

Skyline shouldn't have given Mrs I loans 4 to 7.

If Skyline has sold the outstanding debt it should buy it back if it is able to do so and then take the following steps. If Skyline can't buy the debt back then it should liaise with the new debt owner to achieve the results outlined below.

- A. Skyline should add together the total of the repayments made by Mrs I towards interest, fees, and charges on all upheld loans without an outstanding balance – loans 4 to 6.
- B. To this it should calculate 8% simple interest* on the individual payments made by Mrs I which were considered as part of “A”, calculated from the date Mrs I originally made the payments, to the date the complaint is settled.
- C. Skyline should then remove all interest, fees, and charges from the balance of loan 7, and treat any repayments made by Mrs I as though they had been repayments of the principal. If this results in Mrs I having made overpayments then Skyline should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. Skyline should then refund the amounts calculated in “A” and “B” and move to step “E”.
- D. If there is still an outstanding balance then the amounts calculated in “A” and “B” can be used to repay any balance remaining on loan 7. If this results in a surplus, then the surplus should be paid to Mrs I. However, if there is still an outstanding balance then Skyline should try to agree an affordable repayment plan with Mrs I.
- E. In the FRL Skyline indicated that as part of its uphold of loan 5 then it would remove the loan from Mrs I’s credit file and so I’d expect it to do the same.

Now that Skyline has conceded in relation to the loan 4 uphold by our investigator then I direct that the same is done for loan 4.

The overall pattern of Mrs I’s borrowing for loans 6 and 7 means any information recorded about them is adverse, so it should remove these loans entirely from Mrs I’s credit file. If Skyline has sold any of the loans Skyline should ask the debt purchaser to do the same.

*HM Revenue & Customs requires Skyline to deduct tax from this interest. It should give Mrs I a certificate showing how much tax Skyline has deducted, if she asks for one.

My final decision

My final decision is that I uphold Mrs I’s complaint in part (loans 6 & 7) and I endorse the offer made by Skyline for loans 4 and 5.

I direct that Skyline Direct Limited does as I have said in the ‘putting things right’ part of the decision.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs I to accept or reject my decision before 5 June 2024.

Rachael Williams
Ombudsman