

The complaint

Miss M complains that Skyline Direct Limited ("Skyline") lent to her when she could not afford it. She has said that Skyline took no information from her about her income and her expenditure before approving loans 1 to 5.

What happened

Using information from Skyline's records here is a table of the approved loans.

loan number	loan amount	agreement date	repayment date	number of weekly instalments	highest repayment per loan
1	£100.00	29/11/2017	04/04/2018	20	£6.50
2	£300.00	04/04/2018	15/08/20218	30	£15.00
3	£500.00	15/08/2018	02/01/2019	30	£25.00
4	£500.00	02/01/2019	29/01/2020	30	£25.00
5	£300.00	11/03/2020	07/10/2020	30	£15.00
6	£500.00	11/11/2020	26/05/2021	30	£25.00
7	£500.00	03/03/2021	10/02/2022	30	£25.00
8	£500.00	26/05/2021	outstanding	30	£25.00

Skyline received Miss M's complaint in January 2023 and it issued her with its final response letter (FRL) on 18 January 2023. In that FRL Skyline said:

*'You accrued little or no arrears on loans 1-3, 5 and 6.
You accrued 8 weeks arrears on loan 4.
You accrued 25 weeks arrears on loan 7.
You have a current outstanding balance of £240.00 on loan 8, the last payment received was for £10.00 on 08/12/2022.'*

An agreed repayment plan was set up between Skyline and Miss M for loans 7 and 8 for £30 a week (reduced from the scheduled £50 a week). And that reduced further to £10 a week. I do not know any further details.

The repayments became irregular and in November 2022 Skyline informed Miss M that the account for loan 8 was at risk of being defaulted.

These details are from the FRL which was written by Skyline in January 2023 and as this provisional decision is being issued in late August 2023 I need an updated position on that last loan from Skyline or Miss M.

Skyline did not uphold her complaint and Miss M referred it to the Financial Ombudsman. One of our adjudicators looked at it and she considered that the pattern of borrowing led to her view that loans 6, 7 and 8 ought not to have been approved for Miss M.

Our adjudicator said that she had limited information about any interaction between Miss M and Skyline when arranging the repayment plans. But the fact that the repayments were reduced from £50 a week to £30 and then to £10 a week led her to form a view that contact and agreements had been made and did not consider that was wrong of Skyline.

Miss M's response to the adjudicator's view was focussed on the loans and not this element. I take it from Miss M's response that was not concerned about the outcome relating to this part of her complaint. So, it wasn't investigated it further.

Miss M disagreed with the outcome for loans 1 to 5. Skyline disagreed with the outcome for loans 6 to 8. Each has given their reasons why they think that - all of which was read by my ombudsman colleague.

The unresolved complaint was passed to a colleague of mine to decide and she reviewed the whole complaint afresh. She then issued a provisional decision setting out her thoughts on the complaint in August 2023. Both parties have had an opportunity to raise any final points they wish to make before a final decision is issued.

Skyline hasn't responded to, or acknowledge the provisional decision and Miss M has said; *"Thank you for update and I am happy with decision from the ombudsman..."*

A copy of my colleague's provisional decision follows below and forms part of this final decision.

What my colleague said in her 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.

Skyline had to assess the lending to check if Miss M 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've taken into account several different things, such as how much was being lent, the size of the repayments, and Miss M'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 Miss M. These factors include:

- *Miss M 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 M having many loans and/or having these loans over a long period (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);*
- *Miss M 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 M. The adjudicator thought this applied in Miss M's complaint in relation to loans 6, 7 and 8. I don't have the same view about loan 6.

Skyline was required to establish whether Miss M 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 M 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, made on time, while meeting other reasonable commitments and without having to borrow to make them. If Skyline 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 M's complaint.

I am aware that home credit loans are different to high cost credit loans. They are repaid in weekly instalments and would have been collected from Miss M's home.

Skyline has said:

'Home Credit customers typically access subprime credit as they do not have a perfect credit file. This includes an allowance for missed payments on credit commitments. Our customers often access Home Credit due to additional interest and fees not being added for arrears which is why our credit policy allows for a low level of arrears on our customer accounts.'

Gaps in lending

The gaps in the lending are a matter of weeks between loans 4 and 5 and between loans 6 and 7 and in my view not long enough to break the loan chain. I consider that this was one lending relationship from November 2017 to date as I understand loan 8 remains unpaid.

I do not consider that the gaps in lending break the lending relationship but I do consider that the five week gap before loan 6 makes a difference to how I view the complaint for loans 6, 7 and 8. I don't think I can consider that there was a repetitive lending pattern at loan 6 with the five week gap just before it. But my view is that there was a repetitive nature to the lending by loan 7. I address this later in the provisional decision.

Loan 8

As this is a provisional decision I'd appreciate an update on the current position of that last loan account from either party before I issue any final decision.

Evidence from Miss M

Miss M has sent in some bank account statements which cover two periods – one set for February and March 2018 and the other for August and September 2020.

Miss M has sent to us screenshots of a number of 'pages' from a credit file but these are undated and do not show me the details of the accounts. I think that they are more likely to be screenshots of her credit file situation now which are not of great relevance when I'm being asked to consider lending decisions from 2017 to 2021.

Loans 1 to 6

Loan 1 was for £100 and Miss M would have been a new customer. I consider that this was an application for a low value loan and repayable over 20 weeks which is not a large term.

The scheduled repayments were due to have been £6.50 a week and so I consider it proportionate that Skyline relied on the income and expenditure information Miss M gave to it at the time she applied.

This is at the heart of the disagreement between the parties as Miss M is adamant that Skyline did not have this income and expenditure information for loans 1 to 5.

Skyline has explained to us and in its FRL to Miss M that its agent, in her home, would have taken the information and verified it on site. Miss M would have signed the forms as being true and correct. Skyline has sent to me a table showing a lot of figures covering all of Miss M's income for each of the loans plus her expenditure. This table can be sent to Miss M if she requests it.

Evidence Miss M has sent us are bank account statements which commence in February 2018 which relate to loan 2. So, for loan 1 (November 2017) I have used the information from Skyline which showed it had records that Miss M's income was £1,750 in total for the month. Her expenditure was £1,488 for the month leaving her £302 a month 'disposable income' which was just under £70 a week. So, it considered the £6.50 for 20 weeks for the loan was affordable.

In the absence of any other evidence, I agree with our adjudicator. I am planning not to uphold the complaint about loan 1.

Miss M applied for more at loan 2 - £300 – in April 2018. It was due to be repaid at a rate of £15 a week over 30 weeks. The information Skyline has given me is that Miss M's income was £1,795 a month and her outgoings were £1,555. So, she had disposable income of £240 (£55 a week) and the £15 a week was affordable.

Miss M has sent to us bank statements. I've looked at the ones covering 16 February 2018 to 15 March 2018. Her income was a mixture of salary plus work and child tax credits of £320 each week, plus child benefit of £192 each month and 'SSA CA' and 'SSA DLA'. These appear to be benefits relating to disability allowance and to carers allowance. But I do not know the details.

Miss M's income came to £2,464. Her bank statements showed she took out a lot of cash and often people like to budget their money that way. The other outgoings I could see was for £250 twice a month which may have been rent and £44 for insurance. So, I consider that Miss M's income exceeded her expenditure and the evidence from both parties shows me Miss M could afford loan 2. I plan not to uphold the complaint for loan 2.

Loan 3 was applied for mid-August 2018. The evidence from Skyline is that her income was £2,100 and her outgoings £884. I have no evidence from Miss M about this period and so I've relied on the Skyline evidence. The loan looked affordable. I plan not to uphold the complaint about loan 3.

Loan 4 was applied for in January 2019 and I have noticed that Miss M's income and the sources of income Skyline had noted down altered a lot. So, it had her income as £1,340 and her expenditure as £1,134. That only left her with £47.54 disposable income each week and with the loan costing £25 a week, which, on Skyline's own evidence, seems too slim a margin to have been comfortable. Added to which I think Skyline ought to have noticed a big income drop here.

I am planning to uphold the complaint about loan 4.

Skyline has told us that Miss M accrued 8 weeks of arrears on loan 4 which it would have known about when she approached it for loan 5.

Loan 5 – despite being applied for over a year later in March 2020 – the income and expenditure figures Skyline had were identical to those taken and noted down for loan 4 in January 2019. I do not find this feasible and therefore not persuasive that these were as accurate as they could have been.

And although Miss M had applied for a lower loan - £300 rather than £500 – the weekly

disposable income was £47.54, which after taking off the loan repayments would have left her with £30 a week. Skyline has informed us that Miss M had built up 8 weeks' worth of arrears for loan 4. And so that was not a strong foundation on which to lend again to Miss M using the same figures as before.

And as I am somewhat sceptical about the accuracy of those figures for loans 4 and 5 being identical then I plan to uphold the complaint about loan 5 as well based on the slim margin left to Miss M after she'd paid off the loan, as well as the difficulty Miss M appeared to have in repaying loan 4.

For loan 6 (and for loans 7 and 8 as well) Miss M's income and expenditure were done 'digitally' and appear to have been done for weekly figures only. Miss M applied for £500 in November 2020. The Skyline figures recorded show that Miss M earned £455 a week and had expenditure figures of £188 a week leaving her with a weekly disposable income of £267. But her rent was £0, she did not pay council tax and nothing for two kinds of utilities whereas she had done before this application. The credit she was paying to other lenders each week was already £17 so that plus the Skyline loan would have meant around £42 each week on credit commitments.

Miss M has sent in bank statements which cover the period 12 August 2020 to 9 September 2020 which was towards the end of loan 5. So, although these are not quite the period being the lead up to loan 6 (taken November 2020) I think that they give me an indication of Miss M's financial situation at that point.

Those statements demonstrate to me that Miss M received a combination of salary plus some benefits and her income was £2,564 for what was almost a month. That translates to being around £591 a week. So, the evidence Miss M has sent me indicates that she had more income than the amounts she gave to Skyline at the time she applied.

I can't really tell what Miss M's regular expenditure was from the bank statements as there were a lot of transfers to another account and nothing identifiable as rent or insurances or travel etc. So, even if I were to proceed on the lower Skyline income evidence then loan 6 would have looked affordable.

For loan 6 Skyline has been able to forward to us the credit search data which did indicate that her regular weekly repayments to two other home credit providers (or two other home credit loans) was more like £26 a week. But one loan looked to have an outstanding balance of only £15 and so that likely was due to end very soon.

The credit search showed that Miss M had two defaulted accounts – a mail order and a credit card. The details do not tell me when those defaults were applied. And as lenders such as Skyline are used to lending to applicants with adverse entries then I doubt that this would have made a difference to Skyline's decision to lend.

I am planning not to uphold the complaint about loan 6.

Loans 7 and 8

The income and expenditure information Skyline has given me does show that the weekly income figures reduced a lot. There was a gap before Miss M applied for loan 6 and loan 6 was still unpaid. So, this would have been the first occasion when Miss M's Skyline loans had overlapped – loans 6 and 7 together.

But in addition to looking at the checks that Skyline did before each loan which included asking Miss M for details of her income and expenditure, I've also looked at the overall pattern of the lending history with Miss M, 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 Miss M's case, I think that this point was reached by loan 7. I say this because she had been borrowing consecutively for over three years and, apart from a few weeks, there had been no breaks which in my view highlights the fact that Miss M was likely to be having trouble making ends meet. Skyline was alert from its own records that Miss M had experienced difficulties repaying loan 4. The credit search it had carried out for loans 6, 7 and 8 showed defaulted accounts with debt collectors.

I think that by loan 7 Skyline ought to have realised that she 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 three and a half years. This was a reasonably long time to be using high cost credit. But at loan 7 Miss M was making a commitment to make repayments for a further 30 weeks and loan 6 remained outstanding. So, Miss M was having to pay even more each week.

Added to which, loan 7 was late to be paid off and Miss M's first loan was for £100 and loan 7 was five times larger - £500. At this point Skyline ought to have known that Miss M was not likely borrowing to meet a temporary shortfall in her income but to meet an ongoing need.

I don't think Miss M wasn't making any real inroads to the amount he owed Skyline. Loan 7 was taken out over three years after Miss M's first loan and was to be repaid over a longer term of 30 weeks. Miss M had paid large amounts of interest to, in effect, service a debt to Skyline over an extended period.

I think that Miss M lost out because Skyline provided loans 7 and 8:

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

So, I'm planning to uphold the complaint about loans 7 and 8 (in addition to loans 4 and 5) and I am planning to direct that Skyline should put things right.

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.

I've considered the complaint afresh and I agree with the outcome that was reached by my colleague and as neither Skyline nor Miss M had any further submissions for consideration then I see no reason depart from her findings.

Skyline shouldn't have granted loans 4, 5, 7 and 8 and I've outlined below what it needs to do in order to put things right for her.

Putting things right

In deciding what redress Skyline should fairly pay in this case I've thought about what might have happened had it not lend to Miss M loans 4, 5, 7 and 8, 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 Miss M may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between her and Skyline which she 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 now accurately reconstruct. 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 Miss M 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 Miss M 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. I am aware that loan 8 is outstanding.

To put things right for Miss M, Skyline should:

- refund all the interest and charges applied on loans 4, 5 and 7 and 8; and
- add interest at 8% per year simple interest* on the above refunded sums from the date they were paid, if they were, to the date of settlement;
- remove any adverse payment information recorded on Miss M's credit file because of the interest and charges on loans 4 and 5. The number of loans taken from loan 7 onwards means any information recorded about them is adverse. So, all entries about loans 7 and 8 should be removed from Miss M's credit file. For loan 8 this will have to be done after it's been paid off.

Skyline is entitled to set off any monies arising from the redress against any monies Miss M may owe it, but to be clear this should only be in respect of the principal sum borrowed. Any unpaid charges and interest would need to be removed first and any payments made to loan 8 are treated as if Miss M had paid down the principal.

If a third party owns any debt then to do the set off I have outlined above, Skyline will need to repurchase that debt. If it does not do that then it cannot do the set off and the full amount due will be repayable to Miss M directly. And in those circumstances the third party will need to be directed by Skyline to correct any adverse entries on Miss M's credit file, so far as it is able to do so.

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

My final decision

For the reasons explained above and in the provisional decision, I'm upholding Miss M's complaint in part.

Skyline Direct Limited should put things right for Miss M as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 7 December 2023.

Robert Walker
Ombudsman