

The complaint

Miss P complains that Skyline Direct Limited (Skyline) provided her with loans she couldn't afford to repay. She says, at the time she had multiple other loans with other lenders and until the final two loans she wasn't asked for any evidence of her income.

What happened

Miss P took at least 14 home collected loans between April 2015 and November 2020. I've included some of the information we've received about these loans in the table below.

loan number	loan amount	agreement date	loan repayment date	term (weeks)	weekly repayment
1	£500.00	20/04/2015	02/11/2015	30	£25.00
2	£500.00	20/04/2015	12/11/2015	30	£25.00
3	£500.00	02/11/2015	09/05/2016	30	£25.00
4	£500.00	23/11/2015	09/05/2016	30	£25.00
5	£1,000.00	09/05/2016	24/10/2016	30	£50.00
6	£1,000.00	24/10/2016	08/05/2017	30	£50.00
7	£1,000.00	08/05/2017	27/11/2017	30	£50.00
8	£1,000.00	27/11/2017	04/06/2018	30	£50.00
9	£1,000.00	04/06/2018	19/11/2018	30	£50.00
10	£1,000.00	19/11/2018	20/05/2019	30	£50.00
11	£1,100.00	20/05/2019	25/11/2019	30	£55.00
12	£1,100.00	25/11/2019	18/06/2019	30	£55.00
13	£500.00	20/07/2020	11/02/2021	30	£25.00
14	£800.00	30/11/2020	outstanding	45	£28.44

Some of Miss P's loans overlapped, and where that happened the weekly repayment will be more. For example, when loans one and two were running at the same time Miss P had a combined weekly commitment of £50 to Skyline.

Following Miss P's complaint Skyline issued its final response letter in July 2021. Skyline outlined the checks that it said it carried out during the lending relationship. But it concluded that further checks ought to have been carried out for loans 10 – 12 and it upheld Miss P's complaint about these loans. It didn't uphold the complaint about loans 13 and 14 because it explained that further checks were carried out at this point in time. It didn't uphold Miss P's complaint about any other loans.

Unhappy with this response, Miss P's referred the complaint to the Financial Ombudsman Service.

An adjudicator reviewed Miss P's complaint and he partially upheld it. He hadn't seen enough to say that it was incorrect of Skyline to have advanced loans one and two. But he thought from loan three onwards the lending was now harmful for Miss P. He also concluded, that even if Skyline had carried out further checks when these loans were

advanced it would've seen that Miss P was spending significant sums on gambling transactions. Overall, he upheld Miss P's complaint about loans 3 – 14.

Miss P acknowledged receipt of the assessment but didn't provide any further comments.

Skyline disagreed with the adjudicator's assessment, but its response focused on what happened when loans 13 and 14 were granted. At this time, it says it completed the checks which I've outlined below.

- Skyline carried out a credit check.
- Miss P's income was verified.
- Credit commitments from the credit file were applied to the affordability assessment.
- An additional £25 'buffer' was applied for unexpected expenditure.

As no agreement has been 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 short-term lending - including all the relevant rules, guidance and good industry practice - on our website.

Miss P appears to agree with our adjudicator's findings about loans one and two. So, I no longer think this lending is in dispute, and I no longer need to make a finding about them. But I have kept these loans in mind when thinking about the overall lending relationship between Skyline and Miss P.

Skyline has also accepted that something went wrong when loans 10 – 12 were granted, and it offered to put things right for Miss P in the final response letter. So, like the loans the adjudicator didn't uphold, these loans are no longer in dispute, but for completeness I've included what Skyline needs to do to put things right in the 'putting things right' section at the end of the decision.

Instead, this decision will focus on whether Skyline did anything wrong when it granted loans 3 – 9, 13 and 14.

Before I go into what has happened in this case and Skyline's obligations to Miss P before it lent it is important to address the bank statements Miss P has provided.

Miss P has provided both the Financial Ombudsman and Skyline with bank statements that show from February 2014 she was making regular repayments to Skyline. This is evidence that Miss P's lending relationship started sooner than Skyline has been able to provide evidence for.

Skyline has told the Financial Ombudsman that it can't find any further information about any lending that occurred before loan one in the table above. This is because, Skyline has explained that it only keeps details of loans within the previous six years. As these loans fall outside of that window it doesn't hold any information about them.

Equally, the bank statements don't show the start or end date of each loan or exactly how much was lent. This means, based on the evidence provided it's not possible to accurately reconstruct Miss P's entire lending history prior to April 2015. For example, I can't say

exactly how many loans Miss P was advanced or whether there were any previous repayment problems.

All I can conclude is that Miss P's lending relationship existed with Skyline in some form or another since at least February 2014 – some 14 months before Skyline can show the full loan details and I've kept this in mind when thinking about

Before each loan application Skyline had to assess the lending to check if Miss P 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 a number of different things, such as how much was being lent, the size of the repayments, and Miss P'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 Skyline should have done more to establish that any lending was sustainable for Miss P. These factors include:

- Miss P 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 P 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 P 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 P.

Skyline was required to establish whether Miss P 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 P 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 P's complaint.

Loans 3 - 14

The loan being pounds and pence affordable is only part of the consideration that Skyline needed to consider. So, I haven't felt the need to recreate individual, proportionate affordability checks for these loans because I didn't consider it necessary to do so.

I do accept that based on the information that Skyline gathered for these loans they would've looked affordable to it. But Skyline also needed to consider what had gone on in the lending relationship and to consider whether the loans were sustainable.

I appreciate that Skyline, in the final response letter and in the information provided to the Financial Ombudsman, has pointed out that there is a four-week gap between Miss P repaying loan 12 and being advanced loan 13. But I'm not persuaded that this 'gap' materially changes the outcome of the complaint.

I've considered this gap, but, in this case, it wouldn't change my mind about whether those loans are upheld. This is because prior to this gap, there seems to have been an unbroken chain of lending of over five years. So, I can't fairly say that a break of four weeks is sufficient to think that either loan 13 is the start of a new lending relationship or was a sign that the final two loans were now sustainable for her.

Equally, Skyline has, in response to the adjudicator's assessment pointed out specifically the checks that it carried out for the final two loans. These checks appear to be more detailed, or at the very least more detailed information has been provided about the income and expenditure information from Miss P. Which as I've said above would've shown Skyline these loans were affordable.

Skyline has provided an overview of the credit check result it received about these loans. Skyline says that there weren't signs of financial difficulties and while there were defaults reported these had been more than 12 months before the loans were approved. But, if that was the case, then these defaults may have been visible on or around the time loans 10 and 11 were granted.

As Skyline ought to be aware, a customer receiving a default on their credit file is usually a sign they are having problems meeting their existing credit commitments. So, Skyline's credit check results for loans 12 and 13 indicate, that during the lending relationship Miss P was or likely having financial difficulties.

So, in addition to assessing the circumstances behind each individual loan provided to Miss P, Skyline also needed to consider the overall pattern of lending and what unfolded during the course of its lending relationship with Miss P.

Having looked at the overall pattern of Skyline's lending history with Miss P, I agree with our adjudicator that at this point in time, Skyline should reasonably have seen that further lending was unsustainable, or otherwise harmful, at the time it provided loan three. I say this because;

- At this point Skyline ought to have realised Miss P was not managing to repay her loans sustainably. Miss P had taken out two loans in around 7 months. But, in actual fact, given Miss P's bank statements it seems that Miss P had been indebted to Skyline for at least 21 months and she appears to have been indebted to Skyline for the entire time. So, Skyline ought to have realised it was more likely than not Miss P was having to borrow further to cover an ongoing need and that Miss P's indebtedness was increasing unsustainably and her underlying financial situation didn't seem to be improving.
- Miss P's first loan was for £500 and loan three was for £1,000. At this point Skyline ought to have known that Miss P was not likely borrowing to meet a temporary shortfall in their income but to meet an ongoing need.
- By loan 14, Miss P's weekly repayments were the highest they had been. She started repaying £25 per week for loan one (£50 when loans 1 and 2 were running at the same time), but loan 14 (when loan 13 was still outstanding) she was committed to paying Skyline £53.44 per week. So, Miss P's weekly repayments were increasing which suggests that the loans weren't sustainable for her and her borrowing hadn't decreased over the lending relationship.

- Miss P normally took new loans on the same day as previous loans were repaid. Skyline ought to have realised it was more likely than not Miss P, on these occasions, was having to borrow further to effectively cover a long-term financial need. To me, this is indicative of her indebtedness not being sustainable.
- Miss P wasn't making any real inroads to the amount she owed Skyline. While her final loan was smaller than some of her previous loans it was still larger than her first four. Loan 14 was taken out over five years after loan one, but in actual fact it's more like six years given I know there was lending from February 2014. Miss P had paid large amounts of interest to, in effect, service a debt to Skyline over an extended period.

I think that Miss P has lost out because Skyline provided her lending from loan three because:

- these loans had the effect of unfairly prolonging Miss P's indebtedness by allowing her to take expensive credit over an extended period of time.
- the number of loans and the length of time over which Miss P 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, overall I'm intending to uphold the complaint about loans 3 – 14 and I've outlined below what Skyline needs to do in order to put things right for Miss P.

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 lent from loan three, 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 P may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between them and this particular lender 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 lender 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 lender 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 lender would have been able to lend to Miss P in a compliant way at this time.

Having thought about all of these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Miss P 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 Miss P loans 3 - 14.

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

- A. Skyline should add together the total of the repayments made by Miss P towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything Skyline have already refunded.
- B. Skyline should calculate 8% simple interest* on the individual payments made by Miss P which were considered as part of "A", calculated from the date Miss P originally made the payments, to the date the complaint is settled.
- C. Skyline should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Miss P as though they had been repayments of the principal on the outstanding loan. If this results in Miss P 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" should be used to repay any balance remaining on outstanding loans [and any principal you've already written-off]. If this results in a surplus, then the surplus should be paid to Miss P. However, if there is still an outstanding balance then Skyline should try to agree an affordable repayment plan with Miss P. Skyline shouldn't pursue outstanding balances made up of principal Skyline have already written-off.
- E. The overall pattern of Miss P's borrowing for loans 3 – 14 means any information recorded about them is adverse, so Skyline should remove these loans entirely from Miss P's credit file. Skyline does not have to remove loan 14 from Miss P's credit file until it has been repaid, but Skyline should still remove any adverse information recorded about it.

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

My final decision

For the reasons I've explained above, I'm upholding Miss P's complaint in part.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 5 May 2022.

Robert Walker
Ombudsman