

The complaint

Mr R complains that Gain Credit LLC trading as Lending Stream was irresponsible in its lending to him.

What happened

Mr R took out two loans with Lending Stream – one in March 2013 and one in May 2013.

Loan	Date	Repaid	Amount
1	15/03/2013	18/05/2013	£350.00
2	18/05/2013	07/06/2013	£1,015.00

Mr R has explained that at the time of the loans he had several other outstanding debts, including other short term loans, credit cards, and other loans. And he had a serious gambling addiction and had to declare himself bankrupt in 2018.

Mr R says that had adequate affordability checks taken place, Lending Stream would have realised the level of his indebtedness and seen that he had needed to rollover a payment on another loan before applying to it. He says adequate checks would have shown that lending to him wasn't sustainably affordable.

Lending Stream said that before providing the loans it asked Mr R if he was working and confirmed his monthly income. It also asked about Mr R's expenses including his housing costs, utility bills, food and travel and these were checked against an independent source. It also asked about Mr R's other outstanding credit commitments and says it checked the information provided with a credit reference agency. Lending Stream says that having considered Mr R's income and expenses the loans were affordable for Mr R and so it didn't uphold his complaint.

Our investigator didn't uphold this complaint. He thought that based on the number and size of the loans and the period for which Mr R was borrowing the checks carried out were proportionate and that further verification wasn't needed.

Mr R didn't accept our investigator's view. He didn't think the view of proportionate checks in the early stages of a lending relationship was fair as he said the checks didn't protect consumers who had issues with mental health or addiction (such as gambling). He also didn't think the checks captured underlying lending where consumers were taking on new debt to pay existing debt. He said that the credit checks carried out weren't adequate and more thorough checks were needed to establish an individual's financial circumstances.

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 of the relevant rules, guidance and good industry practice - on our website.

Lending Stream needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure that Mr R could repay the loans in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Lending Stream should fairly and reasonably have done more to establish that any lending was sustainable for a consumer. These factors include:

- the *lower* a customer's 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 *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

I think that it is important for me to start by saying that Lending Stream was required to establish whether Mr R could sustainably repay his loans - not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course, the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. At that time the loans were provided the relevant guidance was provided by the Office of Fair trading (OFT) and this set out the need to make a reasonable assessment of whether a borrower can afford to meet repayments in a sustainable manner. This refers to issues such as being able to make the repayments without undue difficulties throughout the life of the agreement and without having to realise security or assets. It then further sets out that *without undue difficulty* means without having to borrow further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr R's complaint.

Mr R raised his complaint with this service in July 2020. This was more than six years after the loans were provided. However, Mr R has explained he raised his complaint when he became aware of his cause for complaint and so the merits of this complaint have been considered.

Lending Stream provided the first loan to Mr R in March 2013. The loan was for £350 repayable over six monthly instalments with the highest repayment amount being £175. At the time of the loan Mr R provided information saying that he was working full time with a monthly income of £3,800 and monthly expenses of £2,200. A credit check was also carried out. Mr R has said that had adequate checks been carried out, Lending Stream would have seen he had several other outstanding debts at the time. I understand the point Mr R has made and his views that the checks weren't sufficient. When the loans were provided there was a requirement on Lending Stream to carry out a reasonable assessment of whether the

repayments were sustainably affordable. The checks weren't specifically prescribed, and Lending Stream wasn't, for example, required to request copies of bank statements or similar details. Therefore, I have considered whether the checks Lending Stream undertook at this time were adequate and in line with the requirements. As this was Mr R's first loan, I find that the income and credit checks carried out were proportionate and in line with what we would expect to be undertaken at this time. So, while I appreciate Mr R's comments, I do not find I can say Lending Stream was required to carry out any further checks and as the information it gathered didn't raise concerns about the affordability of the loan I do not think I can say the loan shouldn't have been provided.

Mr R repaid the first loan early and then took out a larger loan on the same day. I understand the comments Mr R has made about taking out new borrowing to repay existing debt and the need for this to be captured in the checks. I appreciate the point he has made and had he continued to repay loans and borrow shortly after this should have raised concerns and I would have expected further investigation to have taken place to ensure Mr R wasn't persistently reliant on short term lending. However, in this case Mr R had only been borrowing from Lending Stream for around two months by the time of the second loan and, as set out above, I think at this stage in the relationship, and given the first loan was repaid, the checks of Mr R's income and expenses and the credit check were adequate and in line with what would be expected.

The application for the second loan shows Mr R's monthly income as £3,800 and his monthly expenditure as £2,000. The highest scheduled monthly repayment was around £510 and so based on the information available I do not think it unreasonable that Lending Stream considered the loan affordable.

I understand the issues Mr R has raised about the checks not identifying his underlying indebtedness and his gambling and I am sorry to hear of the health issues Mr R has experienced. However, as I have set out, Lending Stream was required to carry out reasonable checks and so I have considered whether I think this has happened. As Mr R only took out two loans with Lending Stream and these were repaid in a relatively short period of time (and before the scheduled repayments dates), I find that the checks carried out to establish Mr R's income and expenses were reasonable and in line with what we would expect to take place at this time.

While I understand the points Mr R has made and appreciate the distress he has been caused, as the checks didn't raise concerns about Mr R's ability to repay the loans, I do not find in this case I can say the loans were irresponsibly lent and so I do not uphold this complaint.

My final decision

My final decision is that I do not uphold this complaint against Gain Credit LLC trading as Lending Stream.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 17 May 2021.

Jane Archer
Ombudsman