

## The complaint

Miss C complains that Gain Credit LLC trading as Lending Stream irresponsibly gave her unaffordable loans.

## What happened

Lending Stream provided loans to Miss C as follows:

Loan	Date Taken	Date Repaid	Instalments	Amount	Highest Repayment**
1	11/09/2019	20/03/2020	6	£120.00	£42.94
2	14/01/2020	22/04/2020	6	£300.00	£148.20
3	13/02/2020	22/04/2020	6	£300.00	£236.06
4	15/03/2020	22/04/2020	6	£70.00	£235.39
<b>6 month break in lending</b>					
5	22/10/2020	22/04/2021	6	£1,000.00	£335.35
6	13/01/2021	22/01/2021	6	£150.00	£388.22
7	23/04/2021	03/09/2021	6	£540.00	£179.59
8	09/07/2021	09/09/2021	6	£470.00	£351.00

\*\*including overlapping loans

When Miss C complained to Lending Stream it didn't uphold her complaint about loans 1-6 but said it could see that it might not have been a good idea to have provided loans 7-8. So Lending Stream offered to uphold Miss C's complaint in respect of these two loans and made her an offer of redress in line with what we'd expect a lender to do in these circumstances.

Miss C didn't feel this was enough to resolve things – she particularly thought loan 5 should also have been upheld - so she brought her complaint to us.

Lending Stream had already agreed to uphold Miss C's complaint about loans 7 – 8, so our adjudicator concentrated on looking at loans 1-6.

Our adjudicator didn't think she had seen enough to say that Lending Stream shouldn't have provided loans 1,2,3,5 and 6. But she thought that Miss C's application for loan 4 ought to have alerted Lending Stream to the possibility that she was having problems managing her money and realised it was unlikely that she would be able to sustainably repay this loan and so not have provided it. Our adjudicator set out the steps Lending Stream needed to take to put things right for Miss C.

Lending Stream didn't accept our adjudicator's view and asked an ombudsman to review the complaint. In brief summary, it said:

- Miss C had disposable income well in excess of the amount needed to comfortably support repayments for all of her outstanding borrowing
- her track record suggested she was using the loans rationally and sensibly
- loan 4 was for a much lower amount so there was no evidence that Miss C's financial situation was deteriorating
- to suggest that the number of loans alone was a reason to uphold a complaint was like saying a series of credit card transactions would be unsustainable even if within the card limit – which would be a baseless argument.

So the complaint comes to me to make a final decision.

### **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 Miss C 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, amongst other things:

- 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.

Lending Stream was required to establish whether Miss C could sustainably repay her loans - not just whether the loan payments were affordable on a strict pounds and pence calculation.

Whilst loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments it doesn't automatically follow this is the case. This is because the relevant regulations define sustainable as being without undue difficulties. And in particular, the customer should be able to make repayments on time, while meeting other reasonable commitments - as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

Taking all this into account, I've carefully considered all of the arguments, evidence and information provided and thought about what this all means for Miss C's complaint.

As far as I can see, Miss C hasn't objected to what our adjudicator said with respect to not upholding her complaint about loans 1,2,3,5 and 6. So I don't think I need to say more about these loans except that I've reviewed them and independently reached the same conclusion as our adjudicator. I haven't seen enough to say that Lending Stream shouldn't have provided these loans – so I'm not upholding this part of Miss C's complaint. But, like our adjudicator, I don't think Lending Stream should've provided loan 4. I'll explain why I say this.

Looking at loan 4, Lending Stream's income and expenditure checks suggested that it *looked* like Miss C should've had disposable income of around £930 after paying all her other monthly outgoings.

But I think, at this point, Lending Stream should've realised that it seemed unlikely this was the case in reality. I say this because, by the time she asked for loan 4, Miss C already had three other outstanding short-term loans which suggests to me that she was finding it hard to get on top of her money problems and her financial difficulties were likely ongoing. It's hard to understand otherwise why someone with this amount of disposable income would have applied to borrow £50 – which is the amount Miss C seems to have asked for when she first approached Lending Stream about loan 4. Miss C ultimately borrowed just £70 – and signed up to repay double this amount over the loan term, which seems to me to be a very expensive option for someone who, on the face of it, appeared not to need to borrow at all.

So although the loan might've *appeared* affordable on a simple pounds and pence calculation, I think Lending Stream should've realised that Miss C's borrowing record painted a picture of a person struggling with debt. And despite what she'd told Lending Stream about her finances, it showed that Miss C was having serious problems managing her money. So I think Lending Stream should've realised when Miss C asked for loan 4 that it wasn't likely to be sustainable and it shouldn't have provided loan 4 to Miss C.

In coming to my decision I've carefully considered Lending Stream's response to our adjudicator's view – but for the reasons I've explained, this doesn't affect my decision. Repaying her loans without too much apparent difficulty and settling them early doesn't mean that Miss C was able to do so in a way that was sustainably affordable for her. And I'm not persuaded that the analogy Lending Stream seeks to draw between short-term loans and using a credit card means it would be fair and reasonable for me not to uphold Miss C's complaint about loan 4. These are different financial products and I don't think a comparison can usefully or fairly be made here between repeatedly borrowing short-term loans as opposed to multiple drawdowns on a revolving credit account.

For these reasons, I'm upholding Miss C's complaint about loan 4.

As Lending Stream has already agreed to refund all interest and charges in relation to loans 7-8 and to amend Miss C's credit file in line with what we would expect a lender to do in these circumstances, I haven't considered these loans further. Lending Stream has said it will do everything that we would tell it to do if we upheld the complaint about loans 7-8 – so there's nothing further for me to do in this situation.

### **Putting things right**

I think it is fair and reasonable for Miss C to repay the principal amounts that she borrowed because she had the benefit of that lending. But she has had to pay interest (and possibly charges) on loans that shouldn't have been provided to her – so that's unfair. Lending Stream has already agreed to put things right in relation to loans 7 and 8, so if it hasn't already, it should now do what it has said it would to settle that part of Miss C's complaint.

In addition, Lending Stream should also take the following steps:

- A. add together the total of the repayments made by Miss C towards interest, fees and charges on loan 4, not including anything it has already refunded.
- B. Calculate 8% simple interest\* on the individual payments made by Miss C which were considered as part of "A", calculated from the date Miss C originally made the payments, to the date the complaint is settled.
- C. Pay Miss C the amounts calculated in "A" and "B".
- D. Remove any adverse entries Lending Stream has recorded on Miss C's credit file for loan 4.

\*HM Revenue & Customs requires Lending Stream to take off tax from this interest. Lending Stream must give Miss C a certificate showing how much tax it's taken off if she asks for one.

### **My final decision**

I partly uphold Miss C's complaint and direct Gain Credit LLC trading as Lending Stream to take the steps set out above to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 3 May 2022.

Susan Webb  
**Ombudsman**