

The complaint

Mrs P complained that Gain Credit LLC (trading as 'Lending Stream') provided her with unaffordable loans.

What happened

Mrs P complained about two instalment loans she took out with Lending Stream as follows:

Loan No:	Date Taken	Loan Term	Loan Amount	Highest Total Monthly Repayment*	Loan status
1	April 2018	6 months	£300	£170.40	Debt sold
2	June 2018	6 months	£300	£246.72*	Debt sold

*this shows combined payment owed for both loans when loans overlap

When Mrs P complained to Lending Stream it didn't feel it had done anything wrong and didn't uphold her complaint so she brought her complaint to us.

Mrs P told us that, at the time of these loans, she had numerous county court judgements, she was constantly overdrawn, she had other unsecured debts and payday loans and she was on a zero hours contract. She said no checks were made into her financial status.

One of our adjudicators reviewed what Mrs P and Lending Stream told us about these loans.

After carefully considering the loan amounts, what was apparent about Mrs P's circumstances at the time and her history with the lender, our adjudicator didn't recommend upholding Mrs P's complaint.

Mrs P disagreed and asked for an ombudsman to look at her complaint.

Mrs P mainly said that Lending Stream didn't ask about her income and expenditure and made no checks on either of these. She has sent us an extract from her bank statements in support of her complaint and told us that she couldn't afford the loans in the first place.

The complaint came to me to decide. I issued a provisional decision.

What I said in my provisional decision

Here are some of the main things I said.

"Lending Stream provided Mrs P with high-interest loans intended for short-term use so it needed to make sure that it didn't provide them irresponsibly. Lending Stream was required to carry out proportionate checks to be able to understand whether any lending was sustainable for Mrs P before providing it. Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it

gathers and what it does to verify that information – in the early stages of a lending relationship. But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high.

And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

Lending Stream asked Mrs P for information about her financial situation. This included asking Mrs P to declare her income (which it said it took steps to check if required) and obtaining information from her about her normal expenses. Lending Stream compared the information Mrs P provided against national averages and adjusted the figures she provided accordingly to ensure that as far as possible it relied on information that was likely reflect her actual financial situation as realistically as possible.

Lending Stream also asked Mrs P about any other credit expenses and did its own credit checks to gain an understanding of Mrs P's credit history and find out about her current credit commitments.

Lending Stream says the information it gathered showed that both loans should've been affordable for her as she would have had disposable income left after paying for everything. So it was satisfied that in these circumstances it was reasonable to lend.

I think it's fair to say that the income and expenditure information Lending Stream gathered at the time Mrs P applied for both these loans suggested that she was well able to afford this borrowing. When she took out loan 1 she declared her pay was £1,400 and her stated expenses, including an amount she was paying towards her current credit commitments, looked like it came to £750 – which suggested she should have £650 surplus cash out of which to pay this loan.

Her financial situation around the time she took out loan 2 some three months later, was broadly similar – her declared pay was now £1,500, but she said her normal expenditure was a bit less and she wasn't paying as much towards her outstanding credit commitments. On these figures, it looked like she should have around £1,000 disposable income. So even though she would now have to pay for both loans, the overall amount still looked comfortably affordable for her.

I don't know if Lending Stream did any checks to verify Mrs P's pay – but broadly speaking, I think it's fair to say these were both relatively small loans compared to what Lending Stream understood about Mrs P's overall financial situation. When she took out loan 1, Mrs P didn't have any track record with the lender that should've alerted Lending Stream to any underlying money problems. And although she took out loan 2 when she was still paying for loan 1, I don't think that was enough to have caused Lending Stream to think this was a sign that Mrs P was having money problems at this stage or that it shouldn't have provided this loan.

But I think some of the information it had gathered about Mrs P's credit history was potentially concerning. The results of Lending Stream's credit checks appear to show she had a number of defaulted and delinquent accounts. So I think Lending Stream would have understood that this suggested she had some previous financial difficulty and that she might still be having some money problems.

On the face of it, this information appeared to be at odds with what Mrs P had declared and it didn't fit the overall picture of someone with the amount of disposable income that Lending Stream's affordability assessment suggested Mrs P should have had. I also think it wasn't

clear why someone apparently with this amount of surplus cash each month would want to take out these relatively small but expensive loans.

I think that Lending Stream ought to have done more in-depth checks before providing these loans to verify what Mrs P was saying about her financial circumstances to make sure it properly understood her financial situation before agreeing to lend. Lending Stream hasn't shown me it did this. So I can't fairly say that it carried out proportionate checks before agreeing to lend to Mrs P when she applied for these loans.

But that isn't enough of a reason on its own for me to be able to uphold this complaint. In order to uphold Mrs P's irresponsible lending complaint, I would need to be able to say that if Lending Stream had done proportionate checks before lending it would likely have found out information that would've made it realise that the loans weren't likely to be sustainably affordable for her. So I need to be able to see what I think a proportionate check is likely to have revealed at the time.

To help me understand Mrs P's circumstances I've looked at an extract from her bank statements from around April 2018 to give me some insight into her overall finances when she applied to borrow loan 1. For the three week period covered, I can see that Mrs P was overdrawn by amounts that ranged between £367 up to £670 or so, she was incurring daily overdraft fees and I can see at least one returned direct debit shown.

But although I don't think the lenders checks went far enough, I haven't seen enough to make me think that a proportionate check, if done at the time, would've revealed enough to suggest to Lending Stream that these loans were unlikely to be sustainably affordable for Mrs P and so it shouldn't have provided them.

Although Mrs P has mentioned having county court judgements and multiple other credit accounts, I can't see those reflected either in the results of the credit checks Lending Stream has sent me or in the bank statement information she has sent.

I'm aware that when a lender carries out a credit search, the information it sees doesn't usually provide the same level of detail that a consumer's credit search will and it isn't necessarily up to date. A lender might only see a small portion of a borrower's credit file, or some data might be missing or anonymised. I'm also aware that not all payday and short term lenders report to the same credit reference agencies. So, this may explain any differences.

Also, it isn't unusual for applicants for this type of high cost loan to have a credit history showing other borrowing or an impaired credit record – and these things wouldn't necessarily be good enough reasons to prompt a responsible lender to decline a loan application if the loan otherwise looked affordable – as here. Based on everything I've seen so far, I am unable to safely conclude that Mrs P was given loans that were unaffordable for her.

Being on a zero hours contract isn't enough of a reason on its own for refusing a loan application if a loan looks affordable.

Looked at overall, whilst it's clear that Mrs P showed signs she was financially stretched, I don't think the information Mrs P has sent me is enough to show that she was in such serious financial difficulty that I can fairly say Lending Stream should have been prompted to decline these relatively small loan applications had it seen this information before lending. This is why I'm not upholding her complaint

I appreciate this is a disappointing outcome for Mrs P but hope setting out the reasons as I've done will help explain how I've reached my conclusions."

What the parties said in response to my provisional decision

I have heard nothing further from Mrs P. Lending Stream has acknowledged my provisional decision but made no further comment.

As the deadline for responses has now passed, I think it's reasonable for me to proceed with my review of this complaint.

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 approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding this complaint.

As no further comments have been received in response to my provisional decision that change what I think about this case, I still think it's fair not to uphold this complaint for the reasons I explained in more detail in my provisional decision.

My final decision

For these reasons, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 30 August 2022.

Susan Webb
Ombudsman