

The complaint

Ms W says Gain Credit LLC (trading as Drafty) told her it was going to increase her monthly repayment by more than 100% and it did this without checking with her whether the increase was actually affordable for her. Ms W says by Drafty increasing her minimum repayment she had to cut back on essentials.

What happened

Ms W approached Drafty for a running credit facility in July 2019 and she was given a facility with a £1,000 credit limit. It seems based on the statement of account Ms W repaid her facility in April 2022.

To give some context about the facility Ms W was provided with, she was given a running credit account where she could either request funds up to her agreed credit limit in one go or could take multiple drawdowns up to her limit. She was also able to borrow further, up to her credit limit, as and when she repaid what she owed. To be clear, Ms W was not given a payday loan.

Ms W received a letter from Drafty dated 17 March 2021 which outlined the changes it was going to be making as it was concerned that Ms W wasn't making any headway in repaying what she had borrowed. The letter explained

"This letter is to let you know that we are making a change to the minimum monthly amount you must pay us under your Drafty credit agreement, and that we are also freezing your ability to draw further on your account. These changes will take effect from 17-Apr-2021."

It went on to explain that the minimum payment amount will be calculated to move to 12% of the outstanding balance, plus interest fees and charges compared to 2% as outlined in the credit agreement. Drafty also explained, that the minimum amount that would be collected each month would increase from £10 to £100.

Unhappy with these proposed changes, Ms W sent the following email – copied verbatim. I have done this in order to provide context to the complaint and what I am being asked to consider.

Hi

You sent me an email saying you have contacted me about my account and have not had a response and so you are suspending my credit line and putting me on a payment plan. I receive the standard emails each month suggesting I could save money by increasing my min payment but have never had an email suggesting I need to contact you or that you will suspend my credit line.

In addition to this you have increase my payment plan by 100pounds? Are you kidding me? You want me to pay over 100% more than I am paying now? That is unreasonable. I am unhappy this has been arranged with no discussion with me at

all. You have not talked to me about what I can afford or what my expenses are. Despite your claim to be a 'responsible lender' this is a completely irresponsible thing to do. It will mean I can't buy food or get electricity or pay for gas.

Also you state that you can see I have not repaid much of my balance and you think I will struggle to keep up with payments. Again, this is an assumption you have made with no discussion from me at all. I never knew your expectation from me was that I should be paying this line off like a loan and if I had known I would have done this. And you are worried I won't be able to make payments as yet as far as I am aware I have made every payment required of me since this account was open.

I am shocked and disgusted at this situation and that the changes have been made with no communication with me at all! And now I have the added stress of trying to figure out what essential bill not to pay next month in order to fulfil this reckless decision you have made. A decision that will put me into debt with other agencies. Please contact me ASAP to discuss.

This letter, to me is clear. Ms W's complaint is concerned about the proposed increase in her minimum repayment. Ms W makes it clear the proposed increase will be unaffordable for her, but there is nothing else within this letter indicate any other problems.

Drafty has sent at least three final response letters (FRL) to Ms W. The first one, appears to have been sent to Ms W on 28 April 2021 – so shortly after she made her complaint.

The first FRL explained Drafty had noticed that while Ms W was making her repayments, she wasn't make much headway into the capital amount she had borrowed. It therefore, based on the information that it held for Ms W put her on a 'managed repayment plan'. Drafty said it had sent emails in December 2020 as well as January and February 2021 letting her know that this may be an option it took up – the managed plan. Overall, it didn't think it had done anything wrong.

Unhappy with this response, Ms W referred the matter to the Financial Ombudsman Service. While, the case was with us and before it was assessed by an adjudicator two further final response letters were issued. The second FRL was issued in November 2021. It is connected to the same complaint because Drafty references the complaint date at the start of this letter. However, the subject matter of this FRL doesn't, as far as I can see, bear any resemblance to the complaint that Ms W made in March 2021. This FRL dealt with an unaffordable lending complaint, which wasn't mentioned at all as part of the original complaint.

Drafty, in the second FRL partial upheld the complaint – and said;

Based on the above information, we conclude that proper and proportionate affordability checks were conducted at the initiation of the credit line. We also continued to check that the line of credit was affordable. However, we can see there is a possibility that allowing the continued use of the line beyond June 09, 2020 may not have been sustainable in the long term.

Drafty offered to refund any fees, interest or charges applied to new drawdowns after 9 June 2020 this would've led to a refund of £144.06.

A third FRL was then issued in May 2022. Again, Drafty referenced the original complaint date. In this letter, it reiterated that it thought it shouldn't have allowed Ms W to use the facility beyond 9 June 2020 and it provided an updated compensation calculation of £186.06.

One of our adjudicators looked at Ms W's complaint and she upheld it. She concluded that it was likely – given the information Drafty had provided that it had sent the emails in December 2020 as well as in January and March 2021 as was outlined in the first FRL.

The adjudicator also thought it was reasonable why Drafty may have extended help to Ms W considering she appeared to only be making the minimum repayment each month and was then drawing down back up to her credit limit.

So, she thought Drafty needed to have treated Ms W with forbearance where there were signs of financial or possible financial difficulties and it was in March 2021 when Ms W told Drafty that a large increase in payments would put her in difficulties.

The adjudicator accepted that Drafty didn't hear from Ms W about a repayment plan, but she could see from the statement of account, that Ms W's payments did increase after this time. However, interest was continued to be charged when it was aware that Ms W was likely having financial difficulties.

She acknowledged that Drafty had made an offer to uphold the complaint from June 2020, but she didn't think this was right considering the compensation was only on interest on new drawdowns after this date, rather than refunding all the interest frees and charges. Ms W agreed with the proposed outcome by the adjudicator.

Drafty didn't agree and I've summarised its response below;

- Ms W's account was restricted in March 2021 to prevent her from drawing down on the facility any further.
- A payment arrangement was offered but it didn't hear from Ms W so it wasn't put into place.

Having thought about these points, the adjudicator re-considered the complaint and she issued a second assessment. She said, that Drafty ought to have suspended the use of the facility when it found out about Ms W's financial difficulties, and while the adjudicator could see Drafty had prevented her from taking new drawdowns it hadn't stopped the interest being added to the balance – which she thought would've been the fairest thing to have done.

In addition, she could see that Drafty had made the adjustments to the minimum repayment amount as it said it would do in the 17 March 2021 letter – even though Ms W had told it this amount was unaffordable for her.

Ms W provided some further comments for the adjudicator's consideration. Ms W reiterated that she hadn't received the emails about the suspension of the account. She also said she had a phone record of her calling Drafty on 15 May 2021 – but she couldn't remember what the purpose of the call was.

She also wanted to make clear that she had asked Drafty for some help and asked it to contact her to discuss a way forward – and no response was received. Ms W confirmed that she was angry and was upset about what had happened but just wanted to end the relationship with Drafty as soon as possible.

Drafty still didn't agree, and in summary said;

- Drafty reconfirmed that the facility was suspended for new drawdowns in March 2021 to stop any increase in Ms W's liability to it.

- Drafty says interest can't be stopped on the account until a repayment plan is put into place.
- It offered to put Ms W on a repayment plan however, it didn't receive any response from her.
- After this time, Ms W made her repayments on time and without any apparent financial difficulties.

As no agreement could be reached the complaint was passed to me.

I issued a provisional decision explaining the reasons why I was intending to uphold Ms W's complaint. A copy of the findings from the provisional decision follow this and form part of this final decision.

What I said in my provisional decision

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

To start with, I want to be clear that I am only considering the complaint that Ms W brought to this service. Which was, and is, that Drafty told her it was going to make changes to the amount she would need to repay each month. Ms W also told Drafty this increase wasn't affordable for her.

I am not looking at any aspect of unaffordable lending and I accept this has been complicated by Drafty's last two FRLs. But if Ms W is unhappy with the facility being granted then a new complaint could be set up to deal with this.

I want to start by saying that while I appreciate Ms W was unhappy with Drafty's decision to increase her minimum repayment given what it could see in how she was managing the account, but Drafty was required to monitor how the facility was being used and repaid. And not only was Drafty entitled to take corrective action if the facility appeared unsustainable for a customer, it is required to do so.

So if Drafty did believe the minimum payment needed to be increased to make sure the facility was repaid sustainable for Ms W, it was right that it tried to take corrective action in these circumstances, to prevent financial difficulty and unsustainable debt. This is in line with Drafty's regulatory obligations and would be considered good industry practice.

That said, while Drafty might have correctly identified a problem and it was required to take action, it doesn't automatically follow it acted fairly and reasonable. I say this because I'd expect any action taken by a lender to be fair, reasonable and proportionate to the particular circumstances of each case. And I don't think Drafty's actions to correct the situation was reasonable and proportionate here. I've gone on to explain why below.

Firstly, Ms W was told in the first FRL about a number of emails that Drafty says it sent her about its concerns with how the facility was being used. Drafty has said exact copies of those emails aren't available.

Instead, it has provided a screen shot to show the date and time these emails were sent as well as the email address they were sent to. The email addresses used is the same one that Ms W has provided the Financial Ombudsman Service as part of her complaint – so I'm satisfied, that on balance these were sent to the correct address and likely received. I accept that Ms W says these weren't received, and it is possible that these were directed to her 'junk' email folder. But, Drafty had fulfilled its obligation to send these emails so I can't hold it responsible for the possible actions of Ms W's email provider.

I have also been sent a template of the various letters – and it's clear that at this time Drafty was concerned that while repayments were being made on time, Ms W wasn't really making any headway into her balance. The email from December 2020 and January 2021 suggest that Ms W increases her payments (or makes additional payments) because if she doesn't

within the next two months it may take some further steps.

This then resulted in the March 2021 letter – which I've referenced earlier on in this decision. This is where Ms W would be placed on a managed repayment plan by increasing her minimum repayment each month to clear the balance more quickly. Drafty would also prevent Ms W from drawing down any further on the facility.

Up to this point in time, I consider the actions of Drafty to be reasonable. It had concerns about Ms W's indebtedness and was making moves to step in and offer additional support to help Ms W pay down what was owed.

Drafty said the figure it arrived – a minimum of £100 per month was based on income and expenditure details. But I do have real concerns about this. Drafty was basing its assessment on what Ms W could afford from on what she had told it – rather than any independent information Drafty may have gathered. I'm not convinced that was the correct approach when Drafty was looking to potentially increase Ms W's monthly commitment quite significantly.

Drafty says the information it relied upon was from October 2020, so it was, at best, already six months out of date. Based on what Drafty has told us Ms W would've had sufficient disposable income in which to be able to afford the increase that Drafty was going to be asking Ms W to pay. As I've said above, I think Drafty may have wanted some either up to date information from Ms W or taken steps to independently verify her situation to make sure any increase was affordable for her.

However, notwithstanding my concerns about the information Drafty used when deciding what Ms W could maybe afford moving forward, I don't think, it was wrong to have taken the steps that it did. It had concerns and acted upon them.

Ms W's complaint email is clear, that she couldn't afford the increased amount that Drafty was proposing, and therefore, in line with the letter of 17 March 2021 the proposed adjustments to the minimum repayment percentage shouldn't have taken place.

However, I've seen the monthly account statements produced by Drafty after April 2021 and these show the minimum repayment was increased from 2% to 12% - as outlined in the letter from March 2021. So, it does seem, that Drafty went ahead with the managed repayment plan when it was on notice of the implication and impact this would have on Ms W.

It isn't clear how or why this happened considering Drafty says this would only go ahead "unless you tell us otherwise". Ms W did make it clear that she wasn't agreeing to the increase because it wasn't affordable and by increasing the minimum payment amount this could've led her to having problems with other priority bills.

The first FRL also makes it clear Ms W had been put on the 'managed repayment plan' even though she had told Drafty that by doing so could cause her financial difficulties. It is clear having looked at the emails Ms W has provided, and her testimony to the Financial Ombudsman that this caused her distress and upset.

However, it's worth saying that what Ms W told Drafty in the letter of complaint wasn't that the facility was unaffordable, or she was having financial difficulties at that moment in time. Only, that any increase to the minimum repayment would cause problems.

Overall, I think Draft's actions were broadly reasonable, it intervened when it saw signs that Ms W may have been having problems managing her overall debt. However, the execution of this help and support wasn't as expected.

So an error has been made here, but I have to consider the impact of this error had on Ms W. Ms W did make her new repayments at the increased rate without any obvious difficulties and she doesn't appear to have flagged further concerns with Drafty or have

arranged to reduce her amounts and / or ask for further help to set up a repayment plan for less than she was originally paying.

Indeed, by sticking to the new minimum repayment amount (and Drafty not allowing new drawdowns) it meant that within 12 months Ms W was in a position to fully repay the facility. In addition, Drafty did in the first FRL from April 2021 offer further help and support to Ms W but she needed to discuss this situation with her. I appreciate Ms W has shown she called Drafty in May 2021, but she can't tell me what was discussed, but I do know, that she wasn't put on any other plan.

There doesn't appear to have been any other contact – or any evidence that Ms W reached out for further support, so I can only fairly conclude that while not entirely happy with the situation, Ms W made arrangements to ensure she could pay the increased amounts. So in the circumstances I don't think it is fair that Drafty needs to take corrective action in relation to the interest fees and charges but it does need to make an award for the upset caused to Ms W by not doing what it said it would do.

How I propose to put things right

So, the complaint is being upheld, but for slightly different reasons. I don't think there was quite enough in what Ms W told Drafty to make it think that she was having longer term financial difficulties. Indeed, what she told Drafty was that by increasing her minimum payment than this would lead to financial difficulties.

I want to reiterate that Drafty's actions trying to put Ms W on a managed repayment plan was reasonable forbearance at the time, and I don't think it was wrong to do so.

But in saying that, it didn't react to the information Ms W provided about the impact the increase would have on her and Ms W told Drafty in effect, not to increase the minimum repayment when the statement of accounts shows this did happen.

So, unlike the adjudicator I don't think Drafty needs to refund interest, fees and charges from the end of March 2021. This is because the complaint isn't about unaffordable lending. The error was putting the plan in place in the first instance, at the perceived level of £100 a month without assessing Ms W's ability to cope with that £100 a month. Given what Ms W has said, and in the individual circumstances of this complaint, this has clearly caused her a degree of distress and inconvenience. For that, I think Drafty should make a payment to reflect this.

Response to the Provisional Decision

Both Ms W and Drafty were asked to provide any further comments and evidence as soon as possible, but in any event no later than 8 September 2022.

Ms W responded to the provisional decision telling the Financial Ombudsman that she had nothing further to add.

Drafty responded agreeing with the findings that were reached in the provisional decision. It went on to say that if Ms W does accept the findings it will pay the compensation into her bank account ending 9587. If Ms W wishes the funds to be paid into a different account, she will need to contact Drafty.

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.

As Ms W didn't have anything further to add and Drafty has accepted the proposed outcome I see no reason to depart from the findings I made in the provisional decision. So, I still think Drafty was wrong to have not reacted to the information Ms W had provided to it about her financial situation when it wanted to increase her minimum repayment.

I've outlined below what Drafty needs to do in order to put things right for Ms W.

Putting things right

In order to put things right, Drafty should:

- Pay Ms W directly £200 for the distress and inconvenience that was caused.

My final decision

For the reasons I've explained above and in the provisional decision, I'm upholding Ms W's complaint.

Gain Credit LLC should put things right for Ms W as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 7 October 2022.

Robert Walker
Ombudsman