

The complaint

Miss C complains that Gain Credit LLC trading as Lending Stream (Lending Stream) gave her loans which she couldn't afford to repay.

What happened

Miss C was granted five loans from Lending Stream between August 2018 and December 2018. A summary of her borrowing can be found in the table below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	largest repayment per loan
1	£100.00	09/08/2018	24/08/2018	6	£28.79
2	£500.00	25/08/2018	26/10/2018	6	£171.26
3	£250.00	10/10/2018	26/10/2018	6	£77.07
4	£710.00	26/10/2018	sold	6	£241.68
5	£60.00	13/12/2018	18/12/2018	6	£18.13

Lending Stream says Miss C had some problems repaying loan 4, and it say the balance has been sold to a third-party collection agency.

Lending Stream considered Miss C's complaint and issued its final response letter (FRL). Lending Stream said looking at the information Miss C declared to it about her income and expenditure for loans 1 – 4 it concluded she had enough disposable income to afford the loan repayments. However, in relation to loan 5 it said:

"... we have thought about the number of loans and the time between each loan being taken out. We can see that it might not have been a good idea for us to make these loans.

So, we are partially agreeing to your complaint."

Lending Stream then proposed to pay the following compensation – in total, it said Miss C was due a refund of £3.49 (after adding 8% simple interest and deducting tax) in relation to loan 5. It also said it would remove negative markers from Miss C's credit file in relation to loan 5.

Miss C didn't accept the offer and instead referred the complaint to the Financial Ombudsman Service.

The complaint was considered by an adjudicator. The adjudicator didn't consider loan 5 because Lending Stream had already accepted it shouldn't have been granted. The adjudicator didn't uphold Miss C's complaint about the remaining loans because she considered Lending Stream had carried out proportionate checks before it granted loans 1 - 3. And the information suggested these loans were affordable.

However, the adjudicator did conclude that by the time of loan 4, Lending Stream ought to have been verifying the information Miss C had provided. The adjudicator reviewed Miss C's bank statements and credit file which she had provided and concluded that even if Lending Stream had carried out better checks it still would've thought the loan was affordable and sustainable for Miss C, so the adjudicator didn't uphold loan 4 either.

Lending Stream acknowledged the adjudicator's assessment and explained it had nothing further to add.

Miss C didn't agree with the outcome that was reached and asked for an ombudsman to review the complaint because at the same time as borrowing from Lending Stream, she also had an open-ended credit facility that she was having to repay as well.

As no agreement has been reached, the case has been passed to me for a 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 the relevant rules, guidance and good industry practice - on our website.

Lending Stream had to assess the lending to check if Miss C 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. Lending Stream's checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Miss C'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 Lending Stream should have done more to establish that any lending was sustainable for Miss C. These factors include:

- Miss C 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 C 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 C 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 C.

Lending Stream was required to establish whether Miss C 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 C was able to repay her loan 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 C's complaint.

Loans 1 – 3

These were the first loans approved for Miss C, and at times, she had more than one loan running at the same time. This led to a largest monthly repayment, due to Lending Stream, of around £248 per month.

For all of these loans, Lending Stream carried out the same sort of checks. To begin with, it asked for information about Miss C's income and expenditure. The summary spreadsheet provided by Lending Stream as well as the application data shows, Miss C told it she received a monthly income of £1,580 for these loans.

For loans 1 and 2 Miss C declared monthly outgoings of £1,000 and for loan 3 she declared outgoings of £900. Lending Stream also says it considered these figures and where necessary it made adjustments to increase Miss C's monthly expenditure.

Following these checks, Lending Stream concluded Miss C had monthly disposable income of between £580 and £680 before the loan repayments were taken. This was more than sufficient for Lending Stream to believe that Miss C could afford the monthly repayments she was committed to making.

It is worth saying here that although Lending Stream carried out a credit search with a particular credit reference agency, there isn't a regulatory requirement to do one, let alone one to a specific standard. Therefore, it's entirely possible that the information Lending Stream received may not entirely reflect the information Miss C may be able to view in her credit report. There could be for a number of reasons for this, such as Lending Stream only asking for certain pieces of information.

But what Lending Stream couldn't do is carry out a credit search and then not react to the to the information it received.

I've considered the summary of the results Lending Stream has provided. Having reviewed them, for each credit check Lending Stream was on notice that Miss C already had nine active credit accounts – but it didn't know the details of what they were for example they could've been bank accounts, loans, credit cards and / or store cards.

In addition, Lending Stream knew that Miss C had defaulted on five previous credit accounts – which is a significant number. However, the most recent of the defaults was added to her credit file 14 months before loan one was granted.

I accept that this is a significant number of defaults but given the time that has passed since the most recent default had been applied, I think it was just about reasonable for Lending Stream to have approved these loans.

Therefore, I think it was just about reasonable for Lending Stream to have approved these loans, because I think it would've been realistic for it to believe that any repayments problems Miss C had, were historic in nature, because there wasn't anything, as far as I can see that suggested she was having current financial difficulties.

It would not have been proportionate or reasonable for Lending Stream to have reviewed Miss C's bank statements. After all, the loans were for modest sums, and it was the start of the lending chain.

Given it was early on in the lending relationship, I think it was reasonable for Lending Stream to have relied on the information Miss C provided along with the credit check summary to show she had sufficient disposable income to afford the repayments she was committed to making.

There also wasn't anything else in the information to suggest that Miss C was having financial difficulties or that the loan repayments would be unsustainable for her.

I'm therefore not upholding Miss C's complaint about loans 1 – 3.

Loan 4

Loan 4 was approved on the same day loans 2 and 3 were repaid and looking at the statement of account it would seem that Miss C used some of the money she received from loan 4, in order to ensure these earlier loans were repaid.

Miss C was also taking her largest capital loan to date which had the largest singular repayment. These are factors that I've considered when thinking about the checks Lending Stream carried out before this loan was approved.

Lending Stream carried out the same sort of checks for this loan as it had done for loans 1 – 3. Miss C declared a monthly income of £1,580 with outgoings of £850. So, Lending Stream, based solely on this information, could've reasonably concluded the loan was affordable for Miss C.

A credit search was also carried out by Lending Stream, this time it used a different credit reference agency. The results that it received were similar to the first three loans. It was on notice that Miss C had historically defaulted on a number of accounts. But taking account of what Lending Stream was told, it was reasonable of it to believe this loan could be repaid.

However, taking account of the consecutive nature of the borrowing, using this loan to repay previous loans and this being the largest capital loan to date ought to have led Lending Stream to consider whether it knew enough about Miss C's finances.

Overall, I don't think it was reasonable for Lending Stream to have relied on what Miss C declared to it about her income and expenditure even though this information suggested Miss C could afford these loan repayments.

Instead, I think it needed to gain a full understanding of Miss C's actual financial position to ensure the loan was affordable. This could've been done in several ways, such as asking for evidence of her outgoings, or looking at bank statements and/or Miss C's full credit file.

This might've helped verify information provided and revealed whether there was any other information that Lending Stream might've needed to consider about Miss C's.

Miss C has been able to provide both her bank statements from around the time this loan was approved as well as her credit file. I've considered these, but even if Lending Stream would've viewed her bank statements, I still think it would've concluded that Miss C would be in a position to afford the loan repayments. I've explained why below.

Had Lending Stream reviewed Miss C's bank statements it would've seen her monthly income was greater than she had declared. The figure she declared for her salary income was correct, but Miss C also received at least £1,200 a month in benefits, and Lending Stream could've taken the benefit payments into account when considering the affordability of the loan.

Looking at the bank statements there isn't any evidence that Miss C was borrowing from a number of other payday lenders at the time. I can see what appears to be one personal loan payment of £155 per month.

While Miss C's outgoings do appear to be greater than the amount she declared to Lending Stream, I do think, had Lending Stream seen the same bank statements that I have reviewed than it would've likely concluded Miss C could afford her repayments.

I've thought about what Miss C says about using the flexible credit facility she said she had at the time but I can't see either payments or credits to it in either September or October 2018. So, I don't think Lending Stream would've been aware of this product at the time following a review of her bank statements.

In addition, looking at the Miss C's credit file, the information I can see about defaults supports the information Lending Stream received as part of its checks – as the credit file shows a number of defaults recorded in 2016 and 2017. However, in my view, had Lending Stream reviewed Miss C's full credit file I don't think Lending Stream would've made a different decision.

As I don't think better checks by Lending Stream would've led it to decline this loan, I am therefore not upholding Miss C's complaint about this loan either.

Loan 5

Lending Stream has already conceded this loan ought not to have been advanced and it has made an offer of compensation to put things right. The offer of compensation appears to be in line with what the Financial Ombudsman Service may have awarded had it been decided this loan shouldn't have been granted.

As this is the case, then there is no need for me to consider the loan about whether a fair lending decision was made. I would say, Lending Stream's offer to settle the loan is fair and reasonable in the circumstances. So, I say no more about it.

But I have repeated below, for completeness this offer.

Putting things right

In order to settle the complaint, Lending Stream should do what it has already agreed to do in the final response letter.

- A. Lending Stream should add together the total of the repayments made by Miss C towards interest, fees and charges on loan 5.
- B. Lending Stream should 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. Lending Stream should pay Miss C the total of A and B.

D. Lending Stream should remove any adverse information recorded on Miss C's credit file in relation to loan 5.

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

My final decision

I am not upholding Miss C's complaint about loans 1 – 4.

So, for the reasons I've explained above, Lending Stream has already made an offer, to settle the complaint about loan 5, as outlined in the final response letter (and repeated above) and I think this offer is fair in all of the circumstances of the complaint.

So, Gain Credit LLC should pay this offer to Miss C.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 9 February 2023.

Robert Walker
Ombudsman