

The complaint

Mr D complains that Gain Credit LLC trading as Lending Stream irresponsibly lent to him.

What happened

Lending Stream lent Mr D three instalment loans between May and July 2021, Mr D hasn't managed to repay any of the loans and all three loan accounts have now been defaulted. When Mr D complained to Lending Stream, it didn't uphold any part of his complaint and so he referred it to the Financial Ombudsman Service.

Our adjudicator looked at what both parties said and thought Lending Stream shouldn't have lent Mr D the last loan, she didn't find it was wrong to lend the first two loans. Lending Stream didn't agree.

As the complaint remains unresolved, it has been passed to me, an ombudsman to decide.

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. It should have carried out proportionate checks to make sure Mr D could repay the loans without suffering undue financial detriment including being able to make his payments on time and without the need to borrow further. There isn't a set list of checks Lending Stream had to carry out, but it could take into account a number of different things, such as how much was being lent, the repayment amounts and Mr D's income and expenditure.

Lending Stream checked Mr D's monthly income and expenditure before lending any of the loans. Mr D's declared his income as £1,600 for all the loans and his declared monthly expense varied between £605 and £810.60. Lending Stream also checked Mr D's credit file before all the loans.

Our adjudicator didn't recommend that loans 1 and 2 should be upheld, Mr D hasn't disputed this and so the only loan that remains unresolved is loan 3 which is the focus of my decision.

I have considered the lending decisions of loans 1 and 2 and I haven't seen enough to say Lending Stream lent those loans unfairly.

Mr D's declared income at the time of loan 3 was similar to the previous loans, he now had three active loans with Lending Stream – he hadn't fully repaid any of the previous loans and was increasing his overall indebtedness. Mr D's credit file showed he had multiple defaults, many of which he appeared to still be repaying. I think there was sufficient information here to put Lending Stream on notice that Mr D was having problems managing his finances and

was likely dependent on this type of credit.

Mr D borrowed loan 3 within 7 days of loan 2, the total repayments on the three loans was around £148 and not just £63 as Lending Stream highlights – Mr D was expected to repay all three loans at the same time. I'm also concerned that if Mr D did indeed have the level of disposable income Lending Stream says its checks showed, he wouldn't need to keep returning for further borrowing within a short time without fully repaying previous loans.

As a responsible lender, Lending Stream should have reacted to the information it already had about Mr D and shouldn't have continued to lend to Mr D as it should have been aware he'd struggle to repay the loan. This was borne out in the fact that Mr D defaulted on repaying all three loans shortly after.

Lending Stream needs to put things right.

Putting things right

Lending Stream has sold the debt for loan 3, so it should buy it back and take the following steps, if it is unable to buy it back then he should liaise with the debt purchaser to achieve the outcome set out below.

- Remove interest, fees and charges applied to loan 3.
- Treat any repayments Mr D has made towards loan 3 as repayments towards the capital amount.
- If the above steps result in overpayments by Mr D, any overpayments maybe used to offset the outstanding balance on other loans. If there's still a surplus, that should be refunded to Mr D with 8%† interest per annum from the date the overpayments were made (if they were paid) to the date of settlement.
- However, if there's an outstanding balance, Lending Stream should agree a suitable repayment plan with Mr D.
- Remove any adverse information recorded about the loan 3 (taken on 10 July 2021) from Mr D's credit file once he has repaid the capital.

† HM Revenue & Customs requires Lending Stream to take off tax from this interest. Lending Stream must give Mr D a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons given above, I uphold Mr D's complaint in part and direct Gain Credit LLC trading as Lending Stream to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 21 February 2024.

Oyetola Oduola
Ombudsman