

The complaint

Ms D complains that Gain Credit LLC trading as Lending Stream irresponsibly lent to her.

What happened

Lending Stream lent Ms D a total of ten loans between May 2016 and December 2017. Ms D said she was in a borrowing cycle and struggling financially at the time of the loans. I haven't listed all the loans as both parties are aware of the details of all the loans involved.

When Ms D complained to Lending Stream, it only upheld her complaint about loans 8 – 10, Ms D wasn't satisfied with this and referred her complaint to the Financial Ombudsman Service where it was looked at by one of our investigators. Our investigator thought Lending Stream wasn't wrong to lend loans 1 and 2 but thought Lending Stream shouldn't have lent Ms D loans 3 – 10.

Ms D accepted the investigator's recommendation to uphold loans 3 – 10 but Lending Stream didn't. It said it agreed it shouldn't have lent loans 5 onwards but thought it did enough before lending loans 3 and 4. It said it reacted to Ms D declared about her monthly income and expenses at the time of loans 3 and 4 and based on those checks, Ms D could afford the loans.

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 Ms D could repay the loans when they fell due and without the need to borrow further. These checks weren't prescriptive but 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.

Ms D accepts that Lending Stream wasn't wrong to lend loans 1 and 2 and Lending Stream accepts it shouldn't have lent loans 5 – 10. The loans that remain in dispute are loans 3 and 4 and these are the focus of my decision as the complaint about the other loans are no longer in dispute.

Loan 3 was for £180 and loans 4 was for £80, Ms D borrowed both these loans while still repaying loan 2, essentially loans 3 and 4 ran concurrently with loan 2. Before lending either loan, Lending Stream asked Ms D about her monthly income and living costs, Ms D declared an income of £1,800 for loan 1 and £1,850 for loan 2. Ms D declared £400 for her living costs and £0 for her credit commitments for both loans. Lending Stream said its checks showed Ms D repaid £164 towards credit for loan 1 and £76 towards credit for loan 2. It said it also added a further £83 to her declared expenses and reduced her declared income. Lending Stream has argued it didn't just rely on what Ms D told it, but it reacted to the information its checks revealed as well. It has also said the loan amounts were small and so they didn't require more detailed checks.

Lending Stream's search of Ms D's credit file showed she had a default registered on her credit file between loans 2 and 3. As stated above, there was no gap in lending between these loans as they ran concurrently, essentially Ms D defaulted on another credit account while borrowing from Lending Stream. I think this is significant and Lending Stream needed to understand her circumstances better and being concerned that she was likely in financial difficulties.

Our investigator has said once Lending Stream's checks revealed the default, it shouldn't have lent to Ms D, Lending Stream has said it reacted by increasing her overall monthly expenses and reducing her income. In my opinion, Lending Stream didn't do enough to react to the information its checks revealed. It was obvious from its checks Ms D hadn't declared accurate information about her credit commitments, it was also likely she was struggling financially due to the default between loans 2 and 3. There's an argument Lending Stream shouldn't have lent but at the very least, Lending Stream should have been looking to build a better picture of Ms D's financial circumstances. Ms D has provided her bank statements from around the time of loans 3 and 4 and it is clear she was dependent on credit. Ms D was borrowing to repay her loan and sustained an outstanding balance on her overdraft. I can see once she received her wages, her account came into credit but very quickly went back into overdraft once she made payments to her credit and living costs, she was regularly incurring overdraft charges. Ms D also appeared to be in a debt management plan. Ms D wasn't in a position to repay these loans in a sustainable manner.

Lending Stream was on notice that Ms D was likely struggling financially, and it didn't do enough to react to the information it had. The fact Ms D had repaid her previous loan didn't mean she did so sustainably. Lending Stream providing concurrent loans to Ms D despite what it knew wasn't reasonable in the circumstances and it needs to put things right.

Putting things right – what Lending Stream needs to do

- Refund all interest and charges Ms D paid on 3 – 10.
- Pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement†.
- Remove any negative information about loans 3 - 5 from Ms D's credit file.
- The number of loans taken from loan 6 onwards means any information recorded about them is adverse. So, all entries about loans 6 - 10 should be removed from Ms D's credit file.

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

My final decision

For the reasons given above, I uphold Ms D's complaint in part and direct Gain Credit 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 Ms D to accept or reject my decision before 4 March 2024.

Oyetola Oduola
Ombudsman