

## **The complaint**

Miss L complains that Gain Credit LLC trading as Lending Stream (“Lending Stream”) allowed her to take out a loan without checking whether she could afford to repay it.

Miss L is also unhappy that Lending Stream has attempted to obtain a County Court Judgement (CCJ) against her.

## **What happened**

Miss L was advanced one loan of £650 on 1 August 2017. Miss L was due to make six monthly variable payments ranging from £280.80 to £161.20. Miss L has had some problems repaying the loan and Lending Stream says it sold the outstanding balance to a third party on 21 December 2020.

Following Miss L’s complaint, Lending Stream wrote to her to explain why it wasn’t going to uphold it. This was because its checks showed the loan was affordable. Unhappy with this response, Miss L referred the complaint to the Financial Ombudsman Service.

The case was then considered by an investigator. He firstly explained why the checks were proportionate, which showed Lending Stream the loan was affordable. He also said the CCJ was a matter for the courts so we couldn’t stop this from being applied.

Miss L didn’t agree with the investigator’s assessment saying at the time the loan was approved she was in receipt of benefits because she wasn’t working, and Miss L provided benefit statements to show this.

Miss L has also provided details of the mental health problems she was having at the time, she was in a vulnerable position and Lending Stream didn’t check any of the figures she provided to it and so its checks weren’t sufficient. Finally, Lending Stream still chased her for the balance even after a complaint was made and it hasn’t followed the courts instructions.

As no agreement could be reached, the complaint has then been passed to 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 this type of lending - including all the relevant rules, guidance and good industry practice - on our website. And I’ve used that to help me decide this complaint.

Lending Stream had to assess the lending to check if Miss L could afford to pay back the amount she’d borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances of the application. Lending Stream’s checks could’ve taken into account a number of different things, such as how much was being lent, the size of the repayments, and Miss L’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 L. These factors include:

- Miss L 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 L 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 L 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 L. The investigator didn't consider this applied in Miss L's complaint because only one loan was granted, and I agree with this.

Lending Stream was required to establish whether Miss L could *sustainably* repay the loan – 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 L was able to repay her loan sustainably. But it doesn't automatically follow that this is the case.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Miss L's complaint.

Firstly, I'm sorry to hear about Miss L's circumstances at the time the loan was advanced, it does sound like this was a challenging time for her and I do hope things have now improved for her.

As part of her application, Miss L declared a monthly income of £1,600 from full time work for a recruitment company. Lending Stream says it didn't feel it needed to make any adjustments to this income figure based on what it knew about Miss L.

Miss L in response to the investigation's assessment has said that the amount of income she declared was incorrect because she wasn't working at the time and was receiving benefits. But that wasn't reflected in the information Miss L provided to Lending Stream – there wasn't anything to suggest the declared income amount was inaccurate and so Lending Stream could only base its decision to lend on the information it received and gathered. For a first loan, I think it was entirely proportionate for it to use the income figure provided by Miss L (even though it was incorrect) without the need to verify it.

Miss L also declared monthly outgoings of £725. This was broken down as £600 for "*normal expenses*" with £125 being attributed to "*credit-specific expenses*". Lending Stream says it looked at other information such as statistics that relate to the general population and it considered how much people typically spend with their income. Having carried out this further check, Lending Stream increased Miss L's living costs by a further £74. So, in total, for its affordability assessment it believed Miss L's monthly outgoings came to £799. The loan therefore looked affordable.

Before the loan was approved, Lending Stream also carried out a credit search and it has provided the Financial Ombudsman with a summary spreadsheet of the information it received from the credit reference agency. I want to add that, although Lending Stream carried out a credit search, there isn't a regulatory requirement to do one, let alone one to a specific standard.

Lending Stream was also entitled to rely on the information it was given by the credit reference agency. So, I've looked at the results to see whether there was anything contained within it that would've either prompted Lending Stream to have carried out further checks or possibly have declined Miss L's application.

Having looked at the credit check results, in my view there wasn't anything that would've prompted Lending Stream to have carried out further checks. Lending Stream knew Miss L had four active accounts with total debts of just over £500. This isn't a significant enough number of active accounts or total debt to have given Lending Stream any cause for concern.

Lending Stream was told that Miss L had defaulted on a total of three accounts with the most recent one being recorded 20 months before the loan was approved. I don't think Lending Stream would've been overly concerned given the timescales involved because the defaults were too far removed from the loan start date to suggest ongoing financial difficulties.

Overall, there wasn't any signs from the credit check results to indicate Miss L was in current financial difficulties, or to have prompted Lending Stream to carry out further checks.

As this was the first and only loan, I think it was reasonable for Lending Stream to have relied on the information Miss L provided to it – which showed she had sufficient disposable income to afford the repayments. There also wasn't anything to suggest the loan repayments would be unsustainable for her.

I am therefore not upholding Miss L's complaint about Lending Stream's decision to lend to her.

#### *Other considerations*

The investigator is quite right to say that the Financial Ombudsman can't stop a CCJ from being applied, because whether or not a CCJ is granted is a decision for the court which is an independent process to our own and is a process we can't interfere with.

However, in this case, Lending Stream has been clear that the debt was sold to a third party in December 2020. This means after this date; Lending Stream isn't responsible for the debt or what happens to the outstanding balance. The consequences of this are that Lending Stream doesn't have any input or say with what happens to the CCJ because these actions – based on what Lending Stream has told us, are down to a separate and independent third party.

If Miss L has concerns about the third party, she is free to raise these directly with them. If she is also concerned about parties not adhering to court orders then this is something she needs to take up with the courts and she may also wish to seek out independent legal advice.

Taking everything into account, I do not uphold Miss L's complaint.

**My final decision**

For the reasons I've outlined above, I do not uphold Miss L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 13 March 2024.

Robert Walker  
**Ombudsman**