

## The complaint

Mrs M complains, that Gain Credit LLC trading as Lending Stream (“Lending Stream”) provided her loans without carrying out sufficient affordability checks. Had better checks been carried out Lending Stream would’ve likely discovered Mrs M had ten outstanding payday loans.

## What happened

A summary of Mrs M’s borrowing can be found in the table below;

loan number	loan amount	agreement date	repayment date	number of monthly instalments	largest weekly repayment
1	£400.00	27/10/2018	30/04/2019	6	£136.42
2	£700.00	23/01/2019	04/10/2020	6	£236.35
3	£60.00	25/01/2019	04/10/2020	6	£20.80
4	£50.00	14/02/2019	04/10/2020	6	£17.71

The largest repayment column is the cost per loan, but where loans overlapped the cost was greater. For example, when loans 1 to 4 were running concurrently, Mrs M’s contractual monthly repayment was around £411.28.

Following Mrs M’s complaint, Lending Stream explained why it wasn’t going to uphold it. This was because the checks it carried out showed it that Mrs M could afford the loan repayments. Unhappy with this response, Mrs M referred the complaint to the Financial Ombudsman Service.

The case was then considered by an investigator, and didn’t uphold the complaint.

Mrs M didn’t agree saying had Lending Stream reviewed her credit report it would’ve seen she was in financial difficulties.

Mrs M’s complaint was then passed to me, and I then issued a provisional decision explaining the reasons why I was intending to fully uphold Mrs M’s complaint. Both parties were asked for any further submissions by 23 February 2024.

Mrs M agreed with the proposed outcome and had nothing further to add. Lending Stream also accepted the findings as laid out in the provisional decision. It also provided a calculation breakdown and on the date that it was produced it said when everything is added together, and tax deducted Mrs M would receive a refund of £1,538.50.

A copy of the provisional findings follows this in smaller font 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.*

*We've set out our general approach to complaints about this type of lending - and I've used that to help me decide this complaint.*

*Lending Stream had to assess the lending to check if Mrs M 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 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 Mrs M'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 Mrs M. These factors include:*

- Mrs M 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);*
- Mrs M 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);*
- Mrs M 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 Mrs M. The investigator didn't consider this applied in Mrs M's complaint and I agree, given the number of and values of the loans.*

*Lending Stream was required to establish whether Mrs M 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 Mrs M was able to repay her loans 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 Mrs M's complaint.*

*As part of her applications for these loans, Mrs M declared a monthly income of £2,660 for loan 1 and £2,710 per month for the rest of her loans. Lending Stream says it didn't feel it needed to make any adjustments to this income figure based on what it knew about Mrs M. For these loans, I think it was entirely proportionate for it to use the income figure provided by Mrs M, without the need to verify it.*

*Mrs M also declared monthly outgoings of £1,310 for loan 1, £550 for loan 2, £800 for loan 3 and finally £700 for loan 4. Each figure was broken down into "normal expenses" and "credit specific expenses". For example, for loan 1 Mrs M declared £1,210 of normal expenses as well as £100 of existing credit commitments.*

*Before each loan was approved, Lending Stream carried out a credit search and it has provided the Financial Ombudsman with a summary spreadsheet of the results 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.*

*Having looked at the credit check results; I do think Lending Stream was given information to suggest that Mrs M couldn't afford her loans. As part of the credit search results Lending Stream has explained that it is provided with what it calls an "RN" number. This RN number is as explained by Lending Stream as being:*

*"Total monthly payments on all active accounts, excluding mortgages, credit cards,*

*and revolving credit.”*

*So as part of the credit check results Lending Stream is provided with a number which it explains is the total monthly repayment Mrs M was due to make although this doesn't include all types of accounts such as credit cards – it does provide some detail as to for example what her payments were towards outstanding loans.*

*For loans 2 – 4 the RN number given to Lending Stream, which was at least £3,027 per month, was greater than Mrs M declared income. Meaning Lending Stream was told some of her existing credit commitments were larger than her income and this is before the loan repayments were factored in as well as any other living costs such as rent or food were considered.*

*For loan 1, the RN was smaller than Mrs M's income but taking account of the RN number Mrs M was only left with £47 which isn't clearly going to be sufficient to cover her other living costs and not enough to cover the repayment she had to make for this loan.*

*Therefore, I am intending to uphold Mrs M's complaint in full because Lending Stream was given information to show that Mrs M's outstanding credit commitments was either equal to or more than her declared monthly income. These loans shouldn't have been granted as they clearly weren't affordable.*

*I've outlined below what Lending Stream needs to do in order to put things right for Mrs M.*

### **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.

Both parties have accepted the findings that I reached in the provisional decision, so I see no reason to depart from them in this final decision. I still don't think Lending Stream ought to have approved any of the loans given the results of the credit checks it received.

I've set out below what Lending Stream ought to do and has agreed to do in order to put things right for Mrs M.

### **Putting things right**

In deciding what redress Lending Stream should fairly pay in this case, I've thought about what might have happened had it not lent to Mrs M, as I'm satisfied it ought to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending, Mrs M may have simply left matters there, not attempting to obtain the funds from elsewhere. If this wasn't a viable option, she may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, she may have decided to approach a third-party lender with the same application, or indeed a different application (i.e. for more or less borrowing). But even if she had done that, the information that would have been available to such a lender and how they would (or ought to have) treated an application - which may or may not have been the same - is impossible to now accurately reconstruct. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new responsible lender would have been able to lend to Mrs M in a compliant way at this time.

Having thought about all of these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Mrs M would more likely than not have taken up any one of

these options. So, it wouldn't be fair to now reduce Lending Stream's liability in this case for what I'm satisfied it has done wrong and should put right.

Lending Stream shouldn't have given any of the loans to Mrs M.

- A. Lending Stream should add together the total of the repayments made by Mrs M towards interest, fees and charges on these loans, including payments made to a third party where applicable, but not including anything Lending Stream have already refunded.
- B. It should calculate 8% simple annual interest\* on the individual payments made by Mrs M which were considered as part of "A", calculated from the date Mrs M originally made the payments, to the date the complaint is settled.
- C. Lending Stream should pay Mrs M the total of "A" plus "B".
- D. It should remove any adverse information recorded on Mrs M's credit file in relation to these loans.

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

### **My final decision**

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

Gain Credit LLC trading as Lending Stream should put things right for Mrs M as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 26 March 2024.

Robert Walker  
**Ombudsman**