

The complaint

Miss H complains that Gain Credit LLC trading as Lending Stream (“Lending Stream”) failed to conduct proportionate affordability checks before it lent to her.

What happened

A summary of Miss H’s 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	£400.00	28/12/2022	20/03/2023	6	£133.81
2	£300.00	05/07/2023	28/12/2023	6	£96.28

Following Miss H’s complaint, Lending Stream explained why it wasn’t going to uphold the complaint because the checks it carried out showed Miss H could afford her loan repayments. Unhappy with this response, Miss H referred the complaint to the Financial Ombudsman.

The case was then considered by an investigator who didn’t uphold it. She said the information Lending Stream gathered showed the loans to be affordable and there wasn’t any indication the loans would be unsustainable for her.

Miss H didn’t agree, saying in summary:

- Miss H wasn’t able to access mainstream credit
- further checks ought to have been conducted given the type of loan she applied for
- Lending Stream ought to have reviewed her bank statements
- Miss H had been a regular user of high-cost credit
- the first loan was only repaid early because she took further borrowing.

As no agreement could be reached, the complaint has been passed to me for a decision and Miss H then made some further comments, saying.

- the context of her broader financial situation wasn’t considered
- she had other loans and longstanding credit card debts
- the fact Miss H needed this type of credit shows she was in financial distress.

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 in previous decision. And I’ve used that to help me decide this complaint.

Lending Stream had to assess the lending to check if Miss H 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 Miss H'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 H. These factors include:

- Miss H 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 H 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 H 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 H. The investigator didn't consider this applied in Miss H's complaint because only two loans were granted, and I agree with this.

Lending Stream was required to establish whether Miss H 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 H was able to repay her loans sustainably. But it doesn't automatically follow that this was the case.

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

Miss H declared a monthly income of £2,033 for loan 1 and £2,037 for loan 2.

From what I can see, Lending Stream didn't undertake any further verification checks into Miss H's declared income. However, Lending Stream could only base its decision to lend on the information it received and gathered. For these loans, I think it was entirely proportionate for it to use the income figure provided by Miss H without the need to verify it.

Miss H also declared total monthly outgoings of £1,000 for loan 1 and £1,350 for loan 2. For each loan this figure was broken down into "*normal expenses*" and "*credit specific expenses*". For example, for loan one Miss H's expenditure is shown as £900 of normal expenses and £100 of existing credit commitments.

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 related to their income. Having carried out this further check, it didn't make any adjustments to the figures Miss H provided it.

Miss H was only advanced two loans, I think it was also reasonable for Lending Stream to have relied on what it was told without the need to have checked her outgoings beyond the

credit check. This means I don't yet think it had reached the point where Lending Stream could've reasonably been expected to have considered Miss H's bank statements.

Lending Stream is a high-cost lender and operates in a particular sector of the lending market. But that doesn't mean that it has to automatically carry out a full financial review before lending. Indeed, that would in my view, go against the relevant industry guidance at the time, which is to carry out a proportionate check.

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.

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 them that would've either prompted Lending Stream to have carried out further checks or possibly have declined Miss H's application.

Having looked at the credit check results, there wasn't anything that would've prompted Lending Stream to have carried out further checks before either loan was advanced.

Lending Stream knew Miss H had eight active accounts when the loans were approved and it also didn't know how new these accounts were or what sort of accounts, they were for example credit cards, store cards or other payday / instalment loans. This means that while Miss H has explained she was using other payday lenders this wasn't fully reflected in the information Lending Stream obtained.

Lending Stream was also told that there hadn't been any recent defaulted accounts, at least 42 months before loan one. I do think was too long ago for Lending Stream to have concluded that she was likely having current difficulties at the time of the loan applications. That doesn't mean Miss H wasn't experiencing financial difficulties at the time, only that it wasn't reflected in the information Lending Stream gathered and what it could reasonably make its decision on.

Lending Stream was on notice that the amount declared for her monthly credit commitments weren't likely to be accurate. Lending Stream had been told in the credit search results that Miss H's credit commitments were at least £305 per month for loan 1 and £475 per month when loan 2 was approved.

What Lending Stream really ought to have done is adjusted Miss H's outgoings based on the results it was given. But even if Lending Stream had done that – and to be clear I do think that would've been the correct approach to take - it makes no difference to the outcome that I've reached. That being that even using the larger monthly credit commitment figure both loans looked affordable.

I know Miss H says that Lending Stream ought to have gone further with its checks, such as asking to see her bank statements but given the information that Miss H declared as well as the results of Lending Stream's own checks it wouldn't have been proportionate to have carried out further checks. This means, in the circumstances, it would've been disproportionate of it to have considered her bank statements.

Overall, given the value of the loans and what information Miss H provided, Lending Stream firstly carried out proportionate checks and secondly, wasn't given any indication that Miss H

was or was likely having financial difficulties. In those circumstances I think it was entirely fair and reasonable for Lending Stream to have advanced the loans.

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

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 8 May 2024.

Robert Walker
Ombudsman