DRN-4704841

The complaint

Mr D complains through a representative that Gain Credit LLC trading as Lending Stream ("Lending Stream") failed to conduct proportionate affordability checks before it lent to him.

What happened

A summary of Mr D's borrowing can be found in the table below.

loan number	loan amount	agreement date	repayment date	number of instalments	largest total monthly repayment per loan
1	£100.00	12/02/2019	21/06/2019	6 monthly	£31.25
2	£400.00	16/03/2019	21/06/2019	24 weekly	£161.55
Gap in lending					
3	£400.00	08/06/2023	29/06/2023	24 weekly	£159.30
4	£300.00	20/11/2023	outstanding	24 weekly	£119.45

Where loans overlapped the cost Mr D would be expected to make to Lending Stream would increase. When loans 1 and 2 were running concurrently Mr D's largest monthly repayment would be £192.80.

Following the complaint, Lending Stream explained why it wasn't going to uphold. It explained the checks it carried out which showed Mr D could afford these loan repayments. Unhappy with this response, Mr D's representative referred the complaint to the Financial Ombudsman.

The case was then considered by an investigator who didn't uphold it. She said that there was a significant break in borrowing of four years between loans 2 and 3. Thinking about this break as well as the information Lending Stream gathered which showed the loans to be affordable. She also concluded there wasn't any indication the loans would be unsustainable for him.

Mr D's representative didn't agree with the investigator's assessment and asked for an ombudsman's decision. It later provided copies of Mr D's bank statements. 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 Mr D could afford to pay back the amounts he'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 Mr D'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 Mr D. These factors include:

- Mr D 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);
- Mr D 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);
- Mr D 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 Mr D. The investigator didn't consider this applied in Mr D's complaint because four loans were approved in two lending chains, and I agree.

Lending Stream was required to establish whether Mr D could *sustainably* repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr D was able to repay his 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 Mr D's complaint.

There is a significant break in borrowing of almost four years between Mr D repaying loan 2 and when he approached Lending Stream for loan 3. This does have an impact on the level and types of checks Lending Stream could do because in effect, although loan 3 was the third loan. For the purposes of the affordability assessment Lending Stream could've treated Mr D as a new customer and so loan 3 in effect became loan 1 of a new chain.

I've kept this in mind when thinking about the checks Lending Stream conducted before each loan. From what I've seen Lending Stream carried out similar checks before all the loans. It took details of his income, expenditure, assessed the amounts provided and then conducted a credit search. Having reviewed everything in my view these checks were proportionate, and I've explained why below.

Mr D declared a monthly income between £1,450 for loan 1 and £2,000 per month at loan 3. Lending Stream says it didn't feel it needed to make any adjustments to this income figure based on what it knew about Mr D. 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 Mr D without the need to verify it.

Mr D also declared total monthly outgoings as low as £550 for loan 3 and as high as £720 for loan 1. For each loan application this figure was broken down into "*normal expenses*" and "*credit specific expenses*". For example, for loan 1, Mr D's expenditure was broken down as £570 of normal expenses and £150 of existing credit commitments.

Lending Stream says it also 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 declared to it by Mr D for loans 1 and 2.

Adjustments were made to loans 3 and 4. For loan 3 Mr D didn't declare any credit commitments but Lending Stream believed these came to £569 per month and so added this figure to the amount that Mr D had declared about his normal expenditure. For loan 4, Lending Stream added a further £154 to his regular outgoings. Even with these adjustments it appeared to Lending Stream that Mr D would be in a position to afford his loan repayments.

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 it that would've either prompted Lending Stream to have carried out further checks or possibly have declined Mr D's application.

Having looked at the credit check results for all the loans, in my view there wasn't anything that would've prompted Lending Stream to have carried out further checks before any of the loans were advanced.

Lending Stream knew at most Mr D had 10 active accounts when loan 2 was approved. However, Lending Stream 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.

Lending Stream was also told that Mr D's credit file didn't have any defaulted or delinquent accounts recorded – indicating that he was managing his existing credit commitments.

There was some information that suggested that by loan 4, Mr D already had monthly credit commitments of £833. Lending Stream doesn't appear to have fully factored this sum into its affordability assessment. But even if it had fully considered this figure, it still could have concluded the loan was affordable.

Overall, given the value of the loans and what information Mr D provided, I do think Lending Stream firstly carried out proportionate checks and secondly, wasn't given any indication that Mr D 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 without the need to check Mr D's bank statements.

As far as I can see loan 4 is still within the repayment term as outlined in the credit agreement – this loan isn't due to be repaid until May 2024. If Mr D is having problems repaying this loan, then he should speak to Lending Stream who will then be in a position to discuss a way forward with him.

Taking everything into account, I do no not uphold Mr D's complaint.

My final decision

For the reasons I've outlined above, I do not uphold Mr D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 10 May 2024.

Robert Walker
Ombudsman