

## The complaint

Mr R complains that Gain Credit LLC trading as Lending Stream (“Lending Stream”) should’ve carried out a more detailed affordability check before it lent to him.

## What happened

Mr R was advanced one loan of £400 on 11 October 2023. Mr R was due to make five monthly repayments of £120.48 followed by a final payment of £119.30. Mr R repaid the loan on 26 March 2024.

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

The case was then considered by an investigator who didn’t uphold it. Mr R didn’t agree with the investigator’s assessment saying:

- at the time he was financially vulnerable because he was gambling
- Mr R accepted that he “*embellished*” the income and expenditure figures
- given the high interest rate further checks were needed before the loan was advanced
- he had defaults recorded on his credit file.

As no agreement could be reached, the complaint has been passed to me 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 R could afford to pay back the amount 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 R’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 R. These factors include:

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

Lending Stream was required to establish whether Mr R could *sustainably* repay the loan – 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 R was able to repay his 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 Mr R's complaint.

Mr R declared a monthly income of £1,850 from full time work. Lending Stream says it didn't feel it needed to make any adjustments to this income figure based on what it knew about Mr R and for a first loan I think that was entirely reasonable.

Mr R also declared monthly outgoings of £960. This was broken down as £660 for "*normal expenses*" with £300 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 Mr R's living costs by a further £15 per month. So, in total, for its affordability assessment it believed Mr R's monthly outgoings came to £975. The loan therefore looked affordable.

Mr R has said that some of the information he gave may not have been accurate, but there wasn't anything in what Lending Stream was provided with to have made it realise that (apart from the credit commitments which I come on to below). 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 and expenditure figures provided by Mr R (along with the small adjustment) without the need to verify what it had been told.

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 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 R'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 before the loan was advanced or to have declined his application.

Lending Stream was told that Mr R had defaulted on four accounts with the most recent default being recorded 10 months before the loan was approved – it didn't know when the other three had been reported. I've thought about this carefully, as the default is fairly close to the loan being approved. But I've had to weight this up against this being the first loan and the checks Lending Stream had done indicated it would be affordable. Overall, I think it was just about reasonable, for Lending Stream to have approved the loan without looking into these defaults any further given the amount of time that had passed.

As part of the affordability assessment Mr R declared his monthly credit commitments were around £300 per month. However, the credit check results indicated that Mr R's monthly repayment were more likely to be around £579 per month. So, what Lending Stream ought to have done here is substituted the credit search result figure into the affordability assessment. This would've led to total monthly outgoings of £1,254. But even if Lending Stream had substituted the credit commitment figure into Mr R's outgoings the result would've been the same, the loan looked affordable.

I'm sorry to hear about Mr R's gambling and the impact that it and this loan has had on him. I've thought carefully about this, but at the time Lending Stream advanced the loan it didn't and couldn't have known about Mr R's gambling. Mr R didn't let Lending Stream know and the checks it did do were proportionate and didn't indicate that Mr R may have been vulnerable.

I accept if Lending Stream had conducted a full financial review including a check of his bank statements – to be clear I don't think it needed to. Then it may well have discovered his gambling, but in the circumstances of this complaint such a check would've been disproportionate.

This was the first and only loan, I think it was reasonable for Lending Stream to have relied on the information Mr R provided to it as well as the results of its checks– which showed he had sufficient disposable income to afford the repayments. There also wasn't anything to suggest that Mr R was having either current financial difficulties or to indicate the loan repayments would be unsustainable for him.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 27 June 2024.

Robert Walker  
**Ombudsman**