

The complaint

Mr O complains 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 O’s borrowing can be found in the table below.

loan number	loan amount	agreement date	repayment date	number of instalments	largest monthly repayment per loan
1	£70.00	04/12/2022	08/12/2022	6	£23.92
2	£500.00	19/12/2022	20/03/2023	6	£155.23
3	£750.00	12/01/2023	20/03/2023	6	£239.10
4	£500.00	02/06/2023	outstanding	6	£158.36
5	£400.00	12/06/2023	outstanding	6	£118.35

Where loans overlapped the repayments Mr O would be expected to make to Lending Stream would increase. For example, when loans 2 and 3 were running concurrently Mr O’s largest monthly repayment would be £394.33.

Following the complaint, Lending Stream explained why it wasn’t going to uphold it about loans 1 – 4 and it explained the checks it carried out showed it that Mr O could afford these loan repayments. But for loan 5, it said.

“Although this loan was affordable, we have thought about the number of loans and the time between each loan being taken out. We can see that it might not have been a good idea for us to make this loan”

It then explained it would remove any adverse information on Mr O’s credit file – if applicable. Lending Stream then said that the total for Mr O to repay will be £1,187. This seems to be the total outstanding due for loan 4 as well as the principal only for loan 5. In effect, Lending Stream has made loan 5 interest free.

Unhappy with this response and offer, Mr O referred the complaint to the Financial Ombudsman.

The case was then considered by an investigator who didn’t uphold the complaint about loans 1 – 4 and he thought Lending Stream’s offer for loan 5 was fair and reasonable.

Mr O didn’t agree with the assessment, saying in summary.

- He agreed with the outcome about loan 1.
- Loan 2 was repaid much sooner than expected and he returned only a couple of weeks later for a much larger loan.
- Loan 3 was the third loan in a little over a month and at the time loan 2 was still running.

- By the time of loan 4, Mr O had taken 15 payday loans with in the previous 6 months, and this should've resulted in Lending Stream carrying out further checks.
- Had further checks been conducted it would've likely discovered Mr O was spending significant sums on gambling websites.
- Similar checks ought to have been carried out before loan 5 was granted, had it been then Lending Stream would've discovered this loan wasn't affordable either.
- Mr O says the interest he paid towards loans 2 and 3 should be used to reduce the outstanding balance he owes.

As no agreement could be reached, the complaint has then 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 O 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 O'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 O. These factors include:

- Mr O 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 O 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 O 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 O. The investigator didn't consider this applied in Mr O's complaint and I agree.

Lending Stream was required to establish whether Mr O 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 O 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 O's complaint.

Loans 1 and 5

Mr O has accepted the investigator's findings about loan 1, so I don't need to consider this loan further because it is no longer in dispute. In addition, Lending Stream has also accepted that loan 5 ought to not have been granted and has made an offer that is in line with what the Financial Ombudsman would've recommended had the loan been investigated and upheld. But for completeness, I've set out what Lending Stream has already agreed to do to put things right for Mr O for loan 5 at the end of this decision.

Loans 2 – 4

While looking at these loans, I've kept in mind that there is a three-month gap between Mr O repaying loans 2 and 3 and when he took loan 4. While this is clearly not going to be enough to have started a new lending chain, the gap is enough in my view, for Mr O's personal situation to have changed. I've also considered that after loan 3, Mr O borrowed smaller capital amounts and I've kept this mind while thinking about these loans.

From what I've seen Lending Stream carried out similar checks before all these 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 demonstrated the loans were affordable, and I've explained why.

As part of his applications, Mr O declared a monthly income between £2,500 for loan 4 and £2,900 per month for loans 2 and 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 O.

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 O without the need to verify it.

Mr O also declared total monthly outgoings as low as £390 for loan 2 and as high as £750 for loan 4. For each loan application this figure was broken down into "*normal expenses*" and "*credit specific expenses*". For example, for loan 3 Mr O's expenditure was broken down as £375 of normal expenses and £125 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 O for loan 3.

However, adjustments were made to loans 2 and 4. For loan 2 Mr O didn't declare any credit commitments but Lending Stream believed these came to £76 per month based on the results of its credit search and so it correctly added this figure to the amount that Mr O had declared to his normal expenditure.

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 and this does mean that the results Lending Stream received may not be identical to what Mr O may be able to see in his own credit report. 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 O'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 any of the loans were advanced. Lending Stream was told about historic defaults but these had all been recorded at least 46 months before loan 2 was granted and so wouldn't, in my view, have been a cause for concern.

Lending Stream knew at most Mr O had at most 14 active accounts when loan 4 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. So, while Mr O says that he'd taken a number of payday loans within the six months before, Lending Stream, based on the checks it's given to the Financial Ombudsman, wouldn't have known that.

Overall, given the value of the loans and what information Mr O provided, I do think Lending Stream carried out proportionate checks. And secondly it wasn't given any indication that Mr O 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 O's bank statements.

It therefore follows that as I don't think Lending Stream needed to review Mr O's bank statements and so it wouldn't have been made aware that Mr O was spending significant sums on gambling.

If Mr O is having problems repaying his two outstanding loans, then he should speak to Lending Stream who will then discuss a way forward. I would also remind Lending Stream of its obligation to treat Mr O fairly and with forbearance.

Taking everything into account, I do not uphold Mr O's complaint about these loans.

Putting things right

If Lending Stream has already carried out the redress offer it made in the final response letter for loan 5, then it doesn't need to do any more. However, if it hasn't and in line with what it has already agreed to do it should carry out the below.

- A. Lending Stream should remove all interest, fees and charges from the balance on loan 5, and treat any repayments made by Mr O as though they had been repayments of the principal. If this results in Mr O having made overpayments then Lending Stream should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled.
- B. If there is still an outstanding balance, then Lending Stream should try to agree an affordable repayment plan with Mr O and I would remind Lending Stream of its obligation to treat Mr O fairly and with forbearance.
- C. Lending Stream should update the credit file for loan 5, in line with its offer.

HM Revenue & Customs requires Lending Stream to deduct tax from this interest. It should give Mr O a certificate showing how much tax it has deducted, if he asks for one.

My final decision

Gain Credit LLC trading as Lending Stream has already made an offer as outlined in the final response letter to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that Gain Credit LLC trading as Lending Stream should carry out this offer, if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 13 June 2024.

Robert Walker
Ombudsman